

Introduced by Senator Ackerman

February 22, 2002

An act to amend Section 25618 of the Business and Professions Code, to amend Section 17400.5 of the Family Code, to amend Sections 3510, 17419, and 17700 of the Financial Code, to amend Section 80174 of the Food and Agricultural Code, to amend Sections 1368, 3108, and 51018.7 of the Government Code, to amend Sections 11372, 11479, 11479.1, 11479.5, 11550, 25180.7, 44209, 100895, and 116730 of the Health and Safety Code, to amend Sections 227 and 1698 of the Labor Code, to amend Sections 145 and 1672 of the Military and Veterans Code, to amend Sections 88, 182, 289, 374a, 471, 487, 504, 598d, 599b, 653t, 667.6, 803, 1042, 1203.1bb, 1203.72, 1203.73, 1524.1, 2933.1, 3001, 4501.1, 5058, 11051, 11460, 12280, 13823.11, 13861, 13897.2, and 14202 of, and to repeal Sections 969c and 969d of, the Penal Code, to amend Section 8285 of the Public Utilities Code, to amend Sections 19542.3, 43606, 45955, and 46705 of the Revenue and Taxation Code, to amend Sections 1808, 13377, and 15302 of the Vehicle Code, to amend Section 13387 of the Water Code, and to amend Sections 355.1 and 1732.6 of the Welfare and Institutions Code, and to amend an initiative act entitled “An act to be known as the usury law, relating to the rate of interest which may be charged for the loan or forbearance of money, goods or things in action, or on accounts after demand, or on judgments, providing penalties for the violation of the provisions hereof, and repealing sections one thousand nine hundred seventeen, one thousand nine hundred eighteen, one thousand nine hundred nineteen, and one thousand nine hundred twenty of the Civil Code and all acts and parts of acts in conflict with this act,” approved by electors November 5, 1918, by amending Section 3, thereof, relating to public safety.



LEGISLATIVE COUNSEL'S DIGEST

SB 1798, as introduced, Ackerman. Crime.

Existing law contains numerous provisions pertaining to crime and the implementation of the criminal laws of this state.

This bill would make numerous, nonsubstantive changes to clarify and update these provisions.

Existing law provides for a system of determinate sentencing. Under specified provisions relating to loan sharking, price fixing, the escrow law, native plants, perjury, pipeline signs and right-of-way markers, hazardous waste, falsifying specified test records or reports, withholding specified information, failing to pay employee benefits, participating in an insurrection or rebellion, destroying property to hinder a war effort, serving horsemeat, false representation to procure a contract, and specified provisions relating to revenue and taxation, existing law does not provide for determinate sentences.

This bill would change these provisions to specified determinate sentences. Included among these changes is an amendment to proposition 65, an initiative statute, that may be amended by the Legislature by a $\frac{2}{3}$ vote. Accordingly, this bill would require a $\frac{2}{3}$ vote for enactment. Also included is the amendment of an initiative statute relating to loans and one relating to horsemeat, each of which would require voter approval. By changing the punishment for crimes, the bill would impose a state-mandated local program.

Under existing law, no person shall use specified controlled substances. Any person who is convicted of violating specified provisions regarding controlled substances when the offense occurred within 7 years of that person being convicted of 2 or more separate violations of those provisions and refuses to complete a licensed drug rehabilitation program, as specified, shall be punished in a county jail for not less than 180 days nor more than one year.

This bill would make any person who is unlawfully under the influence of cocaine, cocaine base, heroin, methamphetamine, or phencyclidine while in the immediate personal possession of a loaded, operable firearm and who refuses to complete a licensed drug rehabilitation program subject to the above penalty. Because this bill would impose mandatory jail time in a county jail, it would impose a state-mandated local program.

The bill would revise provisions relating to release on parole to require that a person subject to 5 years on parole be on parole continuously for at least 3 years, rather than 2 years, before release.



The bill would also revise provisions to permit the Department of Motor Vehicles to disclose certain convictions for manslaughter for an indefinite period.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25618 of the Business and Professions
2 Code is amended to read:
3 25618. Every person convicted of a felony for a violation of
4 any of the provisions of this division for which another punishment
5 is not specifically provided for in this division shall be punished
6 by a fine of not more than ten thousand dollars (\$10,000) or by
7 imprisonment in the state ~~penitentiary for not less than one year~~
8 ~~nor more than five years prison~~, or by both ~~such~~ *that* fine and
9 imprisonment.
10 SEC. 2. Section 17400.5 of the Family Code is amended to
11 read:
12 17400.5. If an obligor has an ongoing child support order
13 being enforced by a local child support *agency* pursuant to Title
14 IV-D of the Social Security Act and the obligor is disabled, meets
15 the SSI resource test, and is receiving Supplemental Security
16 Income/State Supplemental Payments (SSI/SSP) or, but for excess
17 income as described in Section 416.1100 et seq. of Part 416 of Title
18 20 of the Code of Federal Regulations, would be eligible to receive
19 as SSI/SSP, pursuant to Section 12200 of the Welfare and
20 Institutions Code, and the obligor has supplied the local child
21 support agency with proof of his or her eligibility for, and, if
22 applicable, receipt of, SSI/SSP or Social Security Disability
23 Insurance benefits, then the local child support agency shall
24 prepare and file a motion to modify the support obligation within
25 30 days of receipt of verification from the noncustodial parent or
26 any other source of the receipt of SSI/SSP or Social Security



1 Disability Insurance benefits. The local child support agency shall
2 serve the motion on both the noncustodial parent and custodial
3 person and any modification of the support order entered pursuant
4 to the motion shall be effective as provided in Section 3653 of the
5 Family Code.

6 SEC. 3. Section 3510 of the Financial Code is amended to
7 read:

8 3510. It shall be unlawful for any director, officer, agent, or
9 employee of any corporation to use or to conspire to use the credit,
10 the funds, or the power of the corporation to fix or control the price
11 of any commodities, and any such person violating this section
12 shall be ~~liable to~~ *punished by* a fine of not less than two thousand
13 dollars (\$2,000) ~~and not exceeding nor more than~~ ten thousand
14 dollars (\$10,000) or ~~by imprisonment not less than one year and~~
15 ~~not exceeding five years in the state prison, or by both that fine and~~
16 *imprisonment*, in the discretion of the court.

17 SEC. 4. Section 17419 of the Financial Code is amended to
18 read:

19 17419. On and after January 1, 1992, any person seeking
20 employment with an escrow agent shall complete an employment
21 application on or before the first day of employment which
22 includes, at least, the following information. A copy of the
23 employment application shall be forwarded to the commissioner
24 on or before the first day of the applicant's employment. Persons
25 required to file a statement of identity and questionnaire pursuant
26 to subdivision (f) of Section 17209 or Section 17212.1 are not
27 required to file the employment application set forth in this
28 section. Each person completing the employment application shall
29 be given the notice required by the Information Practices Act
30 (Section 1798.17 of the Civil Code), copies of which may be
31 obtained from the commissioner. Nothing in this section shall limit
32 an escrow agent from requesting additional information from an
33 applicant.

34
35 STATEMENT OF IDENTITY
36 AND EMPLOYMENT APPLICATION

37 Name of Escrow Company: _____

38 Escrow Agent License Number: _____

39



1. Exact Full Name

(Please Print or Type) First Name Middle Name Last Name
(Do not use initials or nicknames)

Title of position to be filled in connection with the preparation of this
employment application.

2. Employment for the last 10 years:

From	To	Employer Name and Address	Occupation and Duties
	Present		

NOTE: Attach separate schedule if space is not adequate.

3. Residence addresses for the last 10 years:

From	To	Street	City	State
	Present			

NOTE: Attach separate schedule if space is not adequate.

4. Have you ever been named in any order, judgment or decree of any court or any governmental agency or administrator, temporarily or permanently restraining or enjoining you from engaging in or continuing any conduct, practice or employment?

() Yes

() No

If the answer is "Yes", please complete the following:

Date of Suit: _____

Location of Court (City, County, State): _____

Nature of Suit: _____

Note: Attach a certified copy of any order, judgement, or decree.

5. Have you ever been refused a license to engage in any business in this state or any other state, or has any such license ever been suspended or revoked?

() Yes

() No

If the answer is "Yes," please complete the following:

State: _____ Title of State Department: _____

Nature of License and Number: _____

Note: Attach a certified copy of any order, judgment, or decree.

6. Have you ever been convicted of or pleaded nolo contendere to a misdemeanor or felony other than traffic violations?

NOTE: “Convicted” includes a verdict of guilty by judge or jury, a plea of guilty or of nolo contendere or a forfeiture of bail. All convictions must be disclosed even if the plea or verdict was thereafter set aside and the charges against you dismissed or expunged or if you have been pardoned. Convictions occurring while you were a minor must be disclosed unless the record of conviction has been sealed under Section 1203.45 of the California Penal Code or Section 781 of the California Welfare and Institutions Code.

() Yes () No

If the answer is “Yes” please complete the following:

Date of Case: _____

Location of Court (City, County, State): _____

Nature of Case: _____

Note: Attach a certified copy of any order, judgment, or decree.

7. Have you ever been a defendant in a civil court action other than divorce, condemnation or personal injury?

() Yes () No

If the answer is “Yes” please complete the following:

Date of Suit: _____

Location of Court (City, County, State): _____

Nature of Suit: _____

Note: Attach a certified copy of any order, judgment, or decree.



1 8. Have you ever changed your name or ever been known by any name other
2 than that herein listed?

3 (Including a woman's maiden name)

4 () Yes () No

5
6 If so, explain. Change in name through marriage or court order should
7 also be listed.

8 EXACT DATE OF EACH NAME CHANGE MUST BE LISTED.

9 _____
10 _____

11
12 9. Have you ever done business under a fictitious firm name either as an
13 individual or in the partnership or corporate form?

14 () Yes () No

15 If the answer is "Yes" set forth particulars:

16 _____
17 _____

18
19 10. Have you ever been a subject of a bankruptcy or a petition
20 in bankruptcy?

21 () Yes () No

22
23 If the answer is "Yes" give date, title of case, location of bankruptcy
24 filing:

25 _____
26 _____
27 _____

28
29 11. Have you ever been refused a bond, or have you ever had a bond
30 revoked or canceled?

31
32 () Yes () No

33 If the answer is "Yes" give details:

34 _____
35 _____

36
37 12. In what capacity will you be employed? _____

38 (e.g., Clerk, Escrow Officer, Receptionist, etc.)



13. Do you expect to be a party to, or broker or salesman in connection with
escrows conducted by the escrow company which is employing you?

() Yes () No

If the answer is "Yes" please explain:

NOTE: Attach separate schedule if space is not adequate.

VERIFICATION

I, the undersigned, state that I am the person named in the foregoing Statement
of Identity and Employment Application; that I have read and signed said
Statement of Identify and Employment Application and know the contents
thereof, including all exhibits attached thereto, and that the statements made
therein, including any exhibits attached thereto, are true.

Any person who provides false information is guilty of a felony and shall, upon
conviction, be fined not more than ten thousand dollars (\$10,000) or
imprisoned in the state prison for ~~one year or more~~ *two, three, or four years* or
in a county jail for not more than one year, or be punished by both ~~such that~~
fine and imprisonment. Any person who knows or should have known of a
violation of this section shall immediately report the violation in writing to the
commissioner.

I certify/declare under penalty of
perjury under the laws of the State of
California that the foregoing is true
and correct.

Executed at _____
(City)

(County) (State)

this _____ day of _____, ~~19~~ 20 ____.

(Signature of Declarant)

1 SEC. 5. Section 17700 of the Financial Code is amended to
2 read:

3 17700. Any person who willfully violates any provision of
4 this division, or who willfully violates any rule or order under this
5 division, shall, upon conviction, be fined not more than ten
6 thousand dollars (\$10,000), or imprisoned in the state prison for
7 ~~one year or more~~, or in a county jail for not more than one year,
8 or be punished by both ~~such~~ *that* fine and imprisonment, but no
9 person may be imprisoned for the violation of any rule or order
10 unless he or she had knowledge of the rule or order. Conviction
11 under this section shall not preclude the commissioner from
12 exercising the authority provided in Section 17423.

13 SEC. 6. Section 80174 of the Food and Agricultural Code is
14 amended to read:

15 80174. A second conviction may be considered as a
16 misdemeanor or a felony. If a misdemeanor, it shall be punishable
17 by a fine of not less than three hundred dollars (\$300), nor more
18 than one thousand dollars (\$1,000), for each violation or by
19 imprisonment in ~~the a~~ county jail ~~not to exceed~~ *for not more than*
20 one year, or by both *that fine and imprisonment*, and each violation
21 constitutes a separate offense. If a felony, it shall be punishable by
22 a fine of not less than one thousand dollars (\$1,000), nor more than
23 five thousand dollars (\$5,000), for each violation or by
24 imprisonment in the state prison ~~not to exceed five years~~, or by
25 both *that fine and imprisonment*, and each violation constitutes a
26 separate offense.

27 Upon the second conviction, all permits issued to the person
28 convicted shall be revoked and the permittee shall be required to
29 surrender any unused tags and seals or wood receipts to the issuing
30 agency and no new or additional permits shall be issued to the
31 permittee at any time in the future from the date of conviction.

32 SEC. 7. Section 1368 of the Government Code is amended to
33 read:

34 1368. Every person who, while taking and subscribing to the
35 oath or affirmation required by this chapter, states as true any
36 material matter which he *or she* knows to be false, is guilty of
37 perjury, and is punishable by imprisonment in the state prison ~~not~~
38 ~~less than one nor more than fourteen~~ *for two, three, or four years*.

39 SEC. 8. Section 3108 of the Government Code is amended to
40 read:

1 3108. Every person who, while taking and subscribing to the
2 oath or affirmation required by this chapter, states as true any
3 material matter which he *or she* knows to be false, is guilty of
4 perjury, and is punishable by imprisonment in the state prison ~~not~~
5 ~~less than one nor more than 14~~ *for two, three, or four years.*

6 SEC. 9. Section 51018.7 of the Government Code is amended
7 to read:

8 51018.7. (a) Any person who willfully and knowingly
9 violates any provision of this chapter or a regulation issued
10 pursuant thereto shall, upon conviction, be subject, for each
11 offense, to a fine of not more than twenty-five thousand dollars
12 (\$25,000), imprisonment ~~for a term not to exceed five years in the~~
13 *state prison, or by both that fine and imprisonment.*

14 (b) Any person who willfully and knowingly defaces,
15 damages, removes, or destroys any pipeline sign or right-of-way
16 marker required by federal or state law or regulation shall, upon
17 conviction, be subject, for each offense, to a fine of not more than
18 five thousand dollars (\$5,000), imprisonment *in a county jail* for
19 ~~a term not to exceed~~ *not more than one year, or by both that fine*
20 *and imprisonment.*

21 SEC. 10. Section 11372 of the Health and Safety Code is
22 amended to read:

23 11372. (a) In addition to the term of imprisonment provided
24 by law for persons convicted of violating Section 11350, 11351,
25 11351.5, 11352, 11353, 11355, 11359, 11360, or 11361, the trial
26 court may impose a fine not exceeding twenty thousand dollars
27 (\$20,000) for each such offense. In no event shall ~~such a~~ fine be
28 levied in lieu of or in substitution for the term of imprisonment
29 provided by law for any of ~~such~~ *these* offenses.

30 (b) Any person receiving an additional term pursuant to
31 paragraph (1) of subdivision (a) of Section 11370.4, may, in
32 addition, be fined *by* an amount not exceeding one million dollars
33 (\$1,000,000) for each ~~such~~ offense.

34 (c) Any person receiving an additional term pursuant to
35 paragraph (2) of subdivision (a) of Section 11370.4, may, in
36 addition, be fined *by* an amount not to exceed four million dollars
37 (\$4,000,000) for each ~~such~~ offense.

38 (d) Any person receiving an additional term pursuant to
39 paragraph (3) of subdivision (a) of Section 11370.4, may, in

1 addition, be fined by *an* amount not to exceed eight million dollars
2 (\$8,000,000) for each ~~such~~ offense.

3 (e) The court shall make a finding, prior to the imposition of the
4 fines authorized by ~~subdivision~~ *subdivisions* (b) to (e), inclusive,
5 that there is a reasonable expectation that the fine, or a substantial
6 portion thereof, could be collected within a reasonable period of
7 time, taking into consideration the defendant's income, earning
8 capacity, and financial resources.

9 SEC. 11. Section 11479 of the Health and Safety Code is
10 amended to read:

11 11479. Notwithstanding Sections *11473 and 11473.5* ~~and~~
12 ~~11474~~, at any time after seizure by a law enforcement agency of
13 a suspected controlled substance, that amount in excess of 10
14 pounds in gross weight may be destroyed without a court order by
15 the chief of the law enforcement agency or a designated
16 subordinate. Destruction shall not take place pursuant to this
17 section until all of the following requirements are satisfied:

18 (a) At least five random and representative samples have been
19 taken, for evidentiary purposes, from the total amount of suspected
20 controlled substances to be destroyed. These samples shall be in
21 addition to the 10 pounds required above. When the suspected
22 controlled substance consists of growing or harvested marijuana
23 plants, at least one 10 pound sample (which may include stalks,
24 branches, or leaves) and five representative samples consisting of
25 leaves or buds shall be retained for evidentiary purposes from the
26 total amount of suspected controlled substances to be destroyed.

27 (b) Photographs have been taken which reasonably
28 demonstrate the total amount of the suspected controlled substance
29 to be destroyed.

30 (c) The gross weight of the suspected controlled substance has
31 been determined, either by actually weighing the suspected
32 controlled substance or by estimating that weight after
33 dimensional measurement of the total suspected controlled
34 substance.

35 (d) The chief of the law enforcement agency has determined
36 that it is not reasonably possible to preserve the suspected
37 controlled substance in place, or to remove the suspected
38 controlled substance to another location. In making this
39 determination, the difficulty of transporting and storing the

1 suspected controlled substance to another site and the storage
2 facilities may be taken into consideration.

3 Subsequent to any destruction of a suspected controlled
4 substance pursuant to this section, an affidavit shall be filed within
5 30 days in the court which has jurisdiction over any pending
6 criminal proceedings pertaining to that suspected controlled
7 substance, reciting the applicable information required by
8 subdivisions (a), (b), (c), and (d) together with information
9 establishing the location of the suspected controlled substance,
10 and specifying the date and time of the destruction. In the event
11 that there are no criminal proceedings pending which pertain to
12 that suspected controlled substance, the affidavit may be filed in
13 any court within the county which would have jurisdiction over a
14 person against whom those criminal charges might be filed.

15 SEC. 12. Section 11479.1 of the Health and Safety Code is
16 amended to read:

17 11479.1. (a) Notwithstanding the provisions of Sections
18 ~~11474, 11474.5~~ 11473, 11473.5, and 11479, at any time after
19 seizure by a law enforcement agency and identification by a
20 forensic chemist or criminalist of phencyclidine, or an analog
21 thereof, that amount in excess of one gram of a crystalline
22 substance containing phencyclidine or its analog, 10 milliliters of
23 a liquid substance containing phencyclidine or its analog, two
24 grams of plant material containing phencyclidine or its analog, or
25 five hand-rolled cigarettes treated with phencyclidine or its
26 analog, may be destroyed without a court order by the chief of the
27 law enforcement agency or a designated subordinate. Destruction
28 shall not take place pursuant to this section until all of the
29 following requirements are satisfied:

30 (1) At least one gram of a crystalline substance containing
31 phencyclidine or its analog, 10 milliliters of a liquid substance
32 containing phencyclidine or its analog, two grams of plant material
33 containing phencyclidine or its analog, or five hand-rolled
34 cigarettes treated with phencyclidine or its analog have been taken
35 as samples from the phencyclidine or analog to be destroyed.

36 (2) Photographs have been taken which reasonably
37 demonstrate the total amount of phencyclidine or its analog to be
38 destroyed.

39 (3) The gross weight of the phencyclidine or its analog has been
40 determined by actually weighing the phencyclidine or analog.

1 (b) Subsequent to any destruction of phencyclidine or its
2 analog, an affidavit shall be filed within 30 days in the court which
3 has jurisdiction over any pending criminal proceedings pertaining
4 to that phencyclidine or its analog, reciting the applicable
5 information required by paragraphs (1), (2), and (3) of subdivision
6 (a), together with information establishing the location of the
7 phencyclidine or analog and specifying the date and time of the
8 destruction. In the event that there are no criminal proceedings
9 pending which pertain to that phencyclidine or analog, the
10 affidavit may be filed in any court within the county which would
11 have jurisdiction over a person against whom such criminal
12 charges might be filed.

13 SEC. 13. Section 11479.5 of the Health and Safety Code is
14 amended to read:

15 11479.5. Notwithstanding Sections *11473 and 11473.5* ~~and~~
16 ~~11474~~, at any time after seizure by a law enforcement agency of
17 a suspected hazardous chemical believed to have been used or
18 intended to have been used in the unlawful manufacture of
19 controlled substances, that amount in excess of one fluid ounce if
20 liquid, or one avoirdupois ounce if solid, of each different type of
21 suspected hazardous chemical and its container, may be disposed
22 of without a court order by the seizing agency. For the purposes of
23 this section, “hazardous chemical” means any material that is
24 believed by the chief of the law enforcement agency to be toxic,
25 carcinogenic, explosive, corrosive, or flammable, and that is
26 believed by the chief of the law enforcement agency to have been
27 used or intended to have been used in the unlawful manufacture of
28 controlled substances.

29 Destruction pursuant to this section of suspected hazardous
30 chemicals or suspected hazardous chemicals and controlled
31 substances in combination, shall not take place until all of the
32 following requirements are met:

33 (a) At least a one ounce sample is taken from each different type
34 of suspected hazardous chemical to be destroyed.

35 (b) At least a one ounce sample has been taken from each
36 container of a mixture of a suspected hazardous chemical with a
37 suspected controlled substance.

38 (c) Photographs have been taken which reasonably
39 demonstrate the total amount of suspected controlled substances
40 and suspected hazardous chemicals to be destroyed.

1 (d) The gross weight or volume of the suspected hazardous
2 chemical seized has been determined.

3 Subsequent to any disposal of a suspected hazardous chemical
4 and its container pursuant to this section, the law enforcement
5 agency involved shall maintain records concerning the details of
6 its compliance with, and reciting the applicable information
7 required by subdivisions (a), (b), (c), and (d), together with the
8 information establishing the location of the suspected hazardous
9 chemical and its container, and specifying the date and time of the
10 disposal.

11 Subsequent to any destruction of a suspected controlled
12 substance in combination with a hazardous chemical pursuant to
13 this section, an affidavit shall be filed within 30 days in the court
14 which has jurisdiction over any pending criminal proceedings
15 pertaining to that suspected controlled substance, reciting the
16 applicable information required by subdivisions (a), (b), (c), and
17 (d).

18 A law enforcement agency responsible for the disposal of any
19 hazardous chemical shall comply with the provisions of Chapter
20 6.5 (commencing with Section 25100) of Division 20 of the Health
21 and Safety Code, as well as all applicable state and federal statutes
22 and regulations.

23 SEC. 14. Section 11550 of the Health and Safety Code is
24 amended to read:

25 11550. (a) No person shall use, or be under the influence of
26 any controlled substance which is (1) specified in subdivision (b),
27 (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
28 specified in paragraph (14), (15), (21), (22), or (23) of subdivision
29 (d) of Section 11054, specified in subdivision (b) or (c) of Section
30 11055, or specified in paragraph (1) or (2) of subdivision (d) or in
31 paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic
32 drug classified in Schedule III, IV, or V, except when administered
33 by or under the direction of a person licensed by the state to
34 dispense, prescribe, or administer controlled substances. It shall be
35 the burden of the defense to show that it comes within the
36 exception. Any person convicted of violating this subdivision is
37 guilty of a misdemeanor and shall be sentenced to serve a term of
38 not less than 90 days or more than one year in a county jail. The
39 court may place a person convicted under this subdivision on
40 probation for a period not to exceed five years and, except as

1 provided in subdivision (c), shall in all cases in which probation
2 is granted require, as a condition thereof, that the person be
3 confined in a county jail for at least 90 days. Other than as provided
4 by subdivision (c), in no event shall the court have the power to
5 absolve a person who violates this subdivision from the obligation
6 of spending at least 90 days in confinement in a county jail.

7 (b) Any person who (1) is convicted of violating subdivision
8 (a) when the offense occurred within seven years of that person
9 being convicted of two or more separate violations of that
10 subdivision *or subdivision (e)*, and (2) refuses to complete a
11 licensed drug rehabilitation program offered by the court pursuant
12 to subdivision (c), shall be punished by imprisonment in a county
13 jail for not less than 180 days nor more than one year. In no event
14 does the court have the power to absolve a person convicted of a
15 violation of subdivision (a) that is punishable under this
16 subdivision from the obligation of spending at least 180 days in
17 confinement in a county jail unless there are no licensed drug
18 rehabilitation programs reasonably available.

19 For the purpose of this section, a drug rehabilitation program
20 shall not be considered reasonably available unless the person is
21 required to pay no more than the court determines that he or she
22 is reasonably able to pay, in order to participate in the program.

23 (c) The court may, when it would be in the interest of justice,
24 permit any person convicted of a violation of subdivision (a)
25 punishable under subdivision (a) or (b) to complete a licensed drug
26 rehabilitation program in lieu of part or all of the imprisonment in
27 the county jail. As a condition of sentencing, the court may require
28 the offender to pay all or a portion of the drug rehabilitation
29 program.

30 In order to alleviate jail overcrowding and to provide recidivist
31 offenders with a reasonable opportunity to seek rehabilitation
32 pursuant to this subdivision, counties are encouraged to include
33 provisions to augment licensed drug rehabilitation programs in
34 their substance abuse proposals and applications submitted to the
35 state for federal and state drug abuse funds.

36 (d) In addition to any fine assessed under this section, the judge
37 may assess a fine not to exceed seventy dollars (\$70) against any
38 person who violates this section, with the proceeds of this fine to
39 be used in accordance with Section 1463.23 of the Penal Code. The
40 court shall, however, take into consideration the defendant's

1 ability to pay, and no defendant shall be denied probation because
2 of his or her inability to pay the fine permitted under this
3 subdivision.

4 (e) Notwithstanding subdivisions (a) and (b) or any other
5 provision of law, any person who is unlawfully under the influence
6 of cocaine, cocaine base, heroin, methamphetamine, or
7 phencyclidine while in the immediate personal possession of a
8 loaded, operable firearm is guilty of a public offense punishable
9 by imprisonment in a county jail for not exceeding one year or in
10 state prison.

11 As used in this subdivision “immediate personal possession”
12 includes, but is not limited to, the interior passenger compartment
13 of a motor vehicle.

14 (f) Every person who violates subdivision (e) is punishable
15 upon the second and each subsequent conviction by imprisonment
16 in the state prison for two, three, or four years.

17 (g) Nothing in this section prevents deferred entry of judgment
18 or a defendant’s participation in a preguilty plea drug court
19 program under Chapter 2.5 (commencing with Section 1000) of
20 Title 6 of Part 2 of the Penal Code unless the person is charged with
21 violating subdivision (b) or (c) of Section 243 of the Penal Code.
22 A person charged with violating this section by being under the
23 influence of any controlled substance which is specified in
24 paragraph (21), (22), or (23) of subdivision (d) of Section 11054
25 or in paragraph (3) of subdivision (e) of Section 11055 and with
26 violating either subdivision (b) or (c) of Section 243 of the Penal
27 Code or with a violation of subdivision (e) shall be ineligible for
28 deferred entry of judgment or a preguilty plea drug court program.

29 SEC. 15. Section 25180.7 of the Health and Safety Code is
30 amended to read:

31 ~~{25180.7.}~~ 25180.7. (a) Within the meaning of this section,
32 a “designated government employee” is any person defined as a
33 “designated employee” by Government Code Section 82019, as
34 amended.

35 (b) Any designated government employee who obtains
36 information in the course of his official duties revealing the illegal
37 discharge or threatened illegal discharge of a hazardous waste
38 within the geographical area of his jurisdiction and who knows that
39 such discharge or threatened discharge is likely to cause
40 substantial injury to the public health or safety must, within

1 seventy-two hours, disclose such information to the local Board of
2 Supervisors and to the local health officer. No disclosure of
3 information is required under this subdivision when otherwise
4 prohibited by law, or when law enforcement personnel have
5 determined that such disclosure would adversely affect an ongoing
6 criminal investigation, or when the information is already general
7 public knowledge within the locality affected by the discharge or
8 threatened discharge.

9 (c) Any designated government employee who knowingly and
10 intentionally fails to disclose information required to be disclosed
11 under subdivision (b) shall, upon conviction, be punished by
12 imprisonment in ~~the a~~ county jail for not more than one year or by
13 imprisonment in ~~the~~ state prison ~~for not more than three years~~. The
14 court may also impose upon the person a fine of not less than five
15 thousand dollars (\$5000) or more than twenty-five thousand
16 dollars (\$25,000). The felony conviction for violation of this
17 section shall require forfeiture of government employment within
18 thirty days of conviction.

19 (d) Any local health officer who receives information pursuant
20 to subdivision (b) shall take appropriate action to notify local news
21 media and shall make such information available to the public
22 without delay.

23 SEC. 16. Section 44209 of the Health and Safety Code is
24 amended to read:

25 44209. Any person who falsifies any test record or report
26 which has been submitted to any other person, the department, or
27 the state board pursuant to this chapter is subject to punishment by
28 a fine of not less than one thousand dollars (\$1,000) or more than
29 five thousand dollars (\$5,000), by imprisonment ~~for not more than~~
30 ~~five years in the state prison~~, or by both ~~the~~ *that* fine and
31 imprisonment.

32 SEC. 17. Section 100895 of the Health and Safety Code is
33 amended to read:

34 100895. (a) Any person who knowingly does any of the
35 following acts may, upon conviction, be punished by a fine of not
36 more than twenty-five thousand dollars (\$25,000) for each day of
37 violation, or by imprisonment in ~~the a~~ county jail not to exceed one
38 year, or by both the fine and imprisonment:

39 (1) Makes any false statement or representation in any
40 application, record, report, or other document submitted,

1 maintained, or used for the purposes of compliance with this
2 article.

3 (2) Has in his or her possession any record required to be
4 maintained pursuant to this article that has been altered or
5 concealed.

6 (3) Destroys, alters, or conceals any record required to be
7 maintained pursuant to this article.

8 (4) Withholds information regarding an imminent and
9 substantial danger to the public health or safety when the
10 information has been requested by the department in writing and
11 is required to carry out the department's responsibilities pursuant
12 to this article.

13 (b) If the conviction under subdivision (a) is for a violation
14 committed after a first conviction of the person under this section,
15 the person may be punished by imprisonment in the state prison for
16 ~~up to 16, 20, or 24 months, or in the a county jail for not to exceed~~
17 *more than* one year, or by a fine of not less than two thousand
18 dollars (\$2,000) or more than fifty thousand dollars (\$50,000) per
19 day of violation, or by both ~~the~~ *that* fine and imprisonment.

20 (c) A NELAP accredited laboratory, upon suspension,
21 revocation, or withdrawal of its NELAP accreditation, shall do
22 both of the following:

23 (1) Discontinue use of all catalogs, advertising, business
24 solicitations, proposals, quotations, or their materials that contain
25 reference to their past accreditation status.

26 (2) Return its certificate of NELAP accreditation to the
27 accrediting authority.

28 (d) The penalties cited in subdivisions (a) and (b) shall also
29 apply to NELAP accredited laboratories.

30 SEC. 18. Section 116730 of the Health and Safety Code is
31 amended to read:

32 116730. (a) Any person who knowingly does any of the
33 following acts may, upon conviction, be punished by a fine of not
34 more than twenty-five thousand dollars (\$25,000) for each day of
35 violation, or by imprisonment in ~~the a~~ county jail not to exceed one
36 year, or by both the fine and imprisonment:

37 (1) Makes any false statement or representation in any
38 application, record, report, or other document submitted,
39 maintained, or used for the purposes of compliance with this
40 chapter.

1 (2) Has in his or her possession any record required to be
2 maintained pursuant to this chapter that has been altered or
3 concealed.

4 (3) Destroys, alters, or conceals any record required to be
5 maintained pursuant to this chapter.

6 (4) Withholds information regarding an imminent and
7 substantial danger to the public health or safety when the
8 information has been requested by the department in writing and
9 is required to carry out the department's responsibilities pursuant
10 to this chapter in response to an imminent and substantial danger.

11 (5) Violates an order issued by the department pursuant to this
12 chapter that has a substantial probability of presenting an
13 imminent danger to the health of persons.

14 (6) Operates a public water system without a permit issued by
15 the department pursuant to this chapter.

16 (b) If the conviction under subdivision (a) is for a violation
17 committed after a first conviction of the person under this section,
18 the person may be punished by imprisonment in the state prison for
19 ~~up to 16, 20, or 24 months, or in the a county jail for not to exceed~~
20 *more than one year*, or by a fine of not less than two thousand
21 dollars (\$2,000) or more than fifty thousand dollars (\$50,000) per
22 day of violation, or by both ~~the that~~ fine and imprisonment.

23 SEC. 19. Section 227 of the Labor Code is amended to read:

24 227. Whenever an employer has agreed with any employee to
25 make payments to a health or welfare fund, pension fund or
26 vacation plan, or other such plan for the benefit of the employees,
27 or a negotiated industrial promotion fund, or has entered into a
28 collective bargaining agreement providing for such payments, it
29 shall be unlawful for such an employer willfully or with intent to
30 defraud to fail to make the payments required by the terms of any
31 such agreement. A violation of any provision of this section where
32 the amount the employer failed to pay into the fund or funds
33 exceeds five hundred dollars (\$500) shall be punishable by
34 imprisonment in the state prison ~~for a period of not more than five~~
35 ~~years~~, or in ~~the a~~ county jail for a period of not more than one year,
36 by a fine of not more than one thousand dollars (\$1,000), or by both
37 ~~such that~~ imprisonment and fine. All other violations shall be
38 punishable as a misdemeanor.

39 SEC. 20. Section 1698 of the Labor Code is amended to read:

1698. All fines collected for violations of this chapter shall be paid into the Farmworker Remedial Account and shall be available, upon appropriation, for purposes of this chapter. Of the moneys collected for licenses issued pursuant to this chapter, fifty dollars (\$50) of each annual license fee shall be deposited in the Farmworker Remedial Account pursuant to *paragraph (4) of subdivision (4) (a)* of Section 1684, three hundred fifty dollars (\$350) of each annual license fee shall be expended by the Labor Commissioner to fund the Farm Labor Contractor Enforcement Unit and the Farm Labor Contractor License Verification Unit, both within the department, and the remaining money shall be paid into the State Treasury and credited to the General Fund.

SEC. 21. Section 145 of the Military and Veterans Code is amended to read:

145. A person who, after publication of the proclamation authorized by Section 143, joins, participates or takes any part in a rebellion, insurrection, tumult or riot, or who is party to any conspiracy or combination to resist by force the execution of the laws or who resists or aids in resisting the execution of process in any county or city declared to be in a state of insurrection, or who aids or attempts the rescue or escape of another from lawful custody or confinement, or who resists or aids in resisting any force ordered out by the Governor to quell or suppress an insurrection, is punishable by a fine of not less than one thousand dollars (\$1,000), or by imprisonment in the state prison ~~not less than~~ *for two, three, or four years*, or in a county jail ~~not exceeding~~ *for not more than one year*, or by both ~~such~~ *that* fine and imprisonment.

SEC. 22. Section 1672 of the Military and Veterans Code is amended to read:

1672. Any person who is guilty of violating Section 1670 or 1671 is punishable as follows:

(a) If ~~his~~ *the* act or failure to act causes the death of any person, ~~he~~ *a person violating this section* is punishable by death or imprisonment in the state prison for life without possibility of parole. The penalty shall be determined pursuant to the provisions of Sections 190.3 and 190.4 of the Penal Code. If the act or failure to act causes great bodily injury to any person, a person violating this section is punishable by life imprisonment without possibility of parole.

(b) If ~~his~~ *the* act or failure to act does not cause the death of, or great bodily injury to, any person, ~~he a person violating this section~~ is punishable by imprisonment in the state prison for ~~not more than 20~~ *two, four, or six* years, or ~~by~~ a fine of not more than ten thousand dollars (\$10,000), or ~~by both that fine and imprisonment.~~ However, if such person so acts or so fails to act with the intent to hinder, delay, or interfere with the preparation of the United States or of any state for defense or for war, or with the prosecution of war by the United States, or with the rendering of assistance by the United States to any other nation in connection with that nation's defense, the ~~minimum punishment shall be~~ *person is punishable by* imprisonment in the state prison for ~~not less than one year, and the maximum punishment shall be~~ *imprisonment in the state prison for not more than 20* *three, five, or seven* years, or by a fine of not more than ten thousand dollars (\$10,000), or ~~by both that fine and imprisonment.~~

SEC. 23. Section 88 of the Penal Code is amended to read:

88. Every member of the Legislature convicted of any crime defined in this ~~Chapter~~ *title*, in addition to the punishment prescribed, forfeits his *or her* office and is forever disqualified from holding any office in this State.

SEC. 24. Section 182 of the Penal Code is amended to read:

182. (a) If two or more persons conspire:

(1) To commit any crime.

(2) ~~Falsify~~ *Falsely* and maliciously to indict another for any crime, or to procure another to be charged or arrested for any crime.

(3) Falsely to move or maintain any suit, action, or proceeding.

(4) To cheat and defraud any person of any property, by any means which are in themselves criminal, or to obtain money or property by false pretenses or by false promises with fraudulent intent not to perform those promises.

(5) To commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws.

(6) To commit any crime against the person of the President or Vice President of the United States, the Governor of any state or territory, any United States justice or judge, or the secretary of any of the executive departments of the United States.

They are punishable as follows:

1 When they conspire to commit any crime against the person of
2 any official specified in paragraph (6), they are guilty of a felony
3 and are punishable by imprisonment in the state prison for five,
4 seven, or nine years.

5 When they conspire to commit any other felony, they shall be
6 punishable in the same manner and to the same extent as is
7 provided for the punishment of that felony. If the felony is one for
8 which different punishments are prescribed for different degrees,
9 the jury or court which finds the defendant guilty thereof shall
10 determine the degree of the felony the defendant conspired to
11 commit. If the degree is not so determined, the punishment for
12 conspiracy to commit the felony shall be that prescribed for the
13 lesser degree, except in the case of conspiracy to commit murder,
14 in which case the punishment shall be that prescribed for murder
15 in the first degree.

16 If the felony is conspiracy to commit two or more felonies which
17 have different punishments and the commission of those felonies
18 constitute but one offense of conspiracy, the penalty shall be that
19 prescribed for the felony which has the greater maximum term.

20 When they conspire to do an act described in paragraph (4), they
21 shall be punishable by imprisonment in the state prison, or by
22 imprisonment in the county jail for not more than one year, or by
23 a fine not exceeding ten thousand dollars (\$10,000), or by both that
24 imprisonment and fine.

25 When they conspire to do any of the other acts described in this
26 section, they shall be punishable by imprisonment in the county
27 jail for not more than one year, or in the state prison, or by a fine
28 not exceeding ten thousand dollars (\$10,000), or by both that
29 imprisonment and fine.

30 All cases of conspiracy may be prosecuted and tried in the
31 superior court of any county in which any overt act tending to
32 effect the conspiracy shall be done.

33 (b) Upon a trial for conspiracy, in a case where an overt act is
34 necessary to constitute the offense, the defendant cannot be
35 convicted unless one or more overt acts are expressly alleged in the
36 indictment or information, nor unless one of the acts alleged is
37 proved; but other overt acts not alleged may be given in evidence.

38 SEC. 25. Section 289 of the Penal Code is amended to read:

39 289. (a) (1) Any person who commits an act of sexual
40 penetration when the act is accomplished against the victim's will

1 by means of force, violence, duress, menace, or fear of immediate
2 and unlawful bodily injury on the victim or another person shall
3 be punished by imprisonment in the state prison for three, six, or
4 eight years.

5 (2) Any person who commits an act of sexual penetration when
6 the act is accomplished against the victim's will by threatening to
7 retaliate in the future against the victim or any other person, and
8 there is a reasonable possibility that the perpetrator will execute
9 the threat, shall be punished by imprisonment in the state prison
10 for three, six, or eight years.

11 (b) Except as provided in subdivision (c), any person who
12 commits an act of sexual penetration, and the victim is at the time
13 incapable, because of a mental disorder or developmental or
14 physical disability, of giving legal consent, and this is known or
15 reasonably should be known to the person committing the act or
16 causing the act to be committed, shall be punished by
17 imprisonment in the state prison for three, six, or eight years.
18 Notwithstanding the appointment of a conservator with respect to
19 the victim pursuant to the provisions of the
20 Lanterman-Petris-Short Act (Part 1 (commencing with Section
21 5000) of Division 5 of the Welfare and Institutions Code), the
22 prosecuting attorney shall prove, as an element of the crime, that
23 a mental disorder or developmental or physical disability rendered
24 the alleged victim incapable of giving legal consent.

25 (c) Any person who commits an act of sexual penetration, and
26 the victim is at the time incapable, because of a mental disorder or
27 developmental or physical disability, of giving legal consent, and
28 this is known or reasonably should be known to the person
29 committing the act or causing the act to be committed and both the
30 defendant and the victim are at the time confined in a state hospital
31 for the care and treatment of the mentally disordered or in any
32 other public or private facility for the care and treatment of the
33 mentally disordered approved by a county mental health director,
34 shall be punished by imprisonment in the state prison, or in a
35 county jail for a period of not more than one year. Notwithstanding
36 the existence of a conservatorship pursuant to the provisions of the
37 Lanterman-Petris-Short Act (Part 1 (commencing with Section
38 5000) of Division 5 of the Welfare and Institutions Code), the
39 prosecuting attorney shall prove, as an element of the crime, that

1 a mental disorder or developmental or physical disability rendered
2 the alleged victim incapable of giving legal consent.

3 (d) Any person who commits an act of sexual penetration, and
4 the victim is at the time unconscious of the nature of the act and
5 this is known to the person committing the act or causing the act
6 to be committed, shall be punished by imprisonment in the state
7 prison for three, six, or eight years. As used in this subdivision,
8 “unconscious of the nature of the act” means incapable of
9 resisting because the victim meets one of the following conditions:

10 (1) Was unconscious or asleep.

11 (2) Was not aware, knowing, perceiving, or cognizant that the
12 act occurred.

13 (3) Was not aware, knowing, perceiving, or cognizant of the
14 essential characteristics of the act due to the perpetrator’s fraud in
15 fact.

16 (e) Any person who commits an act of sexual penetration when
17 the victim is prevented from resisting by any intoxicating or
18 anesthetic substance, or any controlled substance, and this
19 condition was known, or reasonably should have been known by
20 the accused, shall be punished by imprisonment in the state prison
21 for a period of three, six, or eight years.

22 (f) Any person who commits an act of sexual penetration when
23 the victim submits under the belief that the person committing the
24 act or causing the act to be committed is the victim’s spouse, and
25 this belief is induced by any artifice, pretense, or concealment
26 practiced by the accused, with intent to induce the belief, shall be
27 punished by imprisonment in the state prison for a period of three,
28 six, or eight years.

29 (g) Any person who commits an act of sexual penetration when
30 the act is accomplished against the victim’s will by threatening to
31 use the authority of a public official to incarcerate, arrest, or deport
32 the victim or another, and the victim has a reasonable belief that
33 the perpetrator is a public official, shall be punished by
34 imprisonment in the state prison for a period of three, six, or eight
35 years.

36 As used in this subdivision, “public official” means a person
37 employed by a governmental agency who has the authority, as part
38 of that position, to incarcerate, arrest, or deport another. The
39 perpetrator does not actually have to be a public official.

1 (h) Except as provided in Section 288, any person who
2 participates in an act of sexual penetration with another person
3 who is under 18 years of age shall be punished by imprisonment
4 in the state prison or in the county jail for a period of not more than
5 one year.

6 (i) Except as provided in Section 288, any person over the age
7 of 21 years who participates in an act of sexual penetration with
8 another person who is under 16 years of age shall be guilty of a
9 felony.

10 (j) Any person who participates in an act of sexual penetration
11 with another person who is under 14 years of age and who is more
12 than 10 years younger than he or she shall be punished by
13 imprisonment in the state prison for three, six, or eight years.

14 (k) As used in this section:

15 (1) “Sexual penetration” is the act of causing the penetration,
16 however slight, of the genital or anal ~~openings~~ *opening* of any
17 person or causing another person to so penetrate the defendant’s
18 or another person’s genital or anal ~~openings~~ *opening* for the
19 purpose of sexual arousal, gratification, or abuse by any foreign
20 object, substance, instrument, or device, or by any unknown
21 object.

22 (2) “Foreign object, substance, instrument, or device” shall
23 include any part of the body, except a sexual organ.

24 (3) “Unknown object” shall include any foreign object,
25 substance, instrument, or device, or any part of the body, including
26 a penis, when it is not known whether penetration was by a penis
27 or by a foreign object, substance, instrument, or device, or by any
28 other part of the body.

29 (l) As used in subdivision (a), “threatening to retaliate” means
30 a threat to kidnap or falsely imprison, or inflict extreme pain,
31 serious bodily injury or death.

32 (m) As used in this section, “victim” includes any person who
33 the defendant causes to penetrate the genital or anal openings of
34 the defendant or another person or whose genital or anal openings
35 are caused to be penetrated by the defendant or another person and
36 who otherwise qualifies as a victim under the requirements of this
37 section.

38 SEC. 26. Section 374a of the Penal Code is amended to read:

1 374a. Every person giving information leading to the arrest
2 and conviction of any person for a violation of Section ~~374b~~ 374.3
3 or 374c is entitled to a reward therefor.

4 The amount of the reward for each such arrest and conviction
5 shall be 50 percent of the fine levied against and collected from the
6 person who violated Section ~~374b~~ 374.3 or 374c and shall be paid
7 by the court. If the reward is payable to two or more persons, it
8 shall be divided equally. The amount of collected fine to be paid
9 under this section shall be paid prior to any distribution of the fine
10 that may be prescribed by any other section, including Section
11 1463.9, with respect to the same fine.

12 SEC. 27. Section 471 of the Penal Code is amended to read:

13 471. Every person who, with intent to defraud another, makes,
14 forges, or alters any entry in any book of records, or any instrument
15 purporting to be any record or return specified in ~~the preceding~~
16 ~~section~~ Section 470, is guilty of forgery.

17 SEC. 28. Section 487 of the Penal Code is amended to read:

18 487. Grand theft is theft committed in any of the following
19 cases:

20 (a) When the money, labor, or real or personal property taken
21 is of a value exceeding four hundred dollars (\$400), except as
22 provided in subdivision (b).

23 (b) Notwithstanding subdivision (a), grand theft is committed
24 in any of the following cases:

25 (1) (A) When domestic fowls, avocados, olives, citrus or
26 deciduous fruits, other fruits, vegetables, nuts, artichokes, or other
27 farm crops are taken of a value exceeding one hundred dollars
28 (\$100).

29 (B) For the purposes of establishing that the value of avocados
30 or citrus fruit under this paragraph exceeds one hundred dollars
31 (\$100), that value may be shown by the presentation of credible
32 evidence which establishes that on the day of the theft avocados or
33 citrus fruit of the same variety and weight exceeded one hundred
34 dollars (\$100) in wholesale value.

35 (2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or
36 other aquacultural products are taken from a commercial or
37 research operation which is producing that product, of a value
38 exceeding one hundred dollars (\$100).

39 (3) Where the money, labor, or real or personal property is
40 taken by a servant, agent, or employee from his or her principal or

1 employer and aggregates four hundred dollars (\$400) or more in
2 any 12 consecutive month period.

3 (c) When the property is taken from the person of another.

4 (d) When the property taken is ~~an~~ *any of the following*:

5 (1) ~~An~~ automobile, ~~firearm~~, horse, mare, gelding, any bovine
6 animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog,
7 sow, boar, gilt, barrow, or pig.

8 (2) *A firearm.*

9 (e) This section shall become operative on January 1, 1997.

10 SEC. 29. Section 504 of the Penal Code is amended to read:

11 504. Every officer of this State, or of any county, city, city and
12 county, or other municipal corporation or subdivision thereof, and
13 every deputy, clerk, or servant of ~~any such~~ *that* officer, and every
14 officer, ~~Director, Trustee, Clerk~~ *director, trustee, clerk*, servant, or
15 agent of any association, society, or corporation (public or
16 private), who fraudulently appropriates to any use or purpose not
17 in the due and lawful execution of ~~his~~ *that person's* trust, any
18 property ~~which he has~~ in his *or her* possession or under his *or her*
19 control by virtue of ~~his~~ *that* trust, or secretes it with a fraudulent
20 intent to appropriate it to ~~such~~ *that* use or purpose, is guilty of
21 embezzlement.

22 SEC. 30. Section 598d of the Penal Code is amended to read:

23 598d. (a) Notwithstanding any other provision of law,
24 horsemeat may not be offered for sale for human consumption. No
25 restaurant, cafe, or other public eating place may offer horsemeat
26 for human consumption.

27 (b) Violation of this section is a misdemeanor punishable by a
28 fine of not more than one thousand dollars (\$1,000), or by
29 confinement in jail for not less than 30 days nor more than two
30 years, or by both that fine and confinement.

31 (c) A second or subsequent offense under this section is
32 punishable by imprisonment in the state prison ~~for not less than~~
33 ~~two years nor more than five years.~~

34 SEC. 31. Section 599b of the Penal Code is amended to read:

35 599b. In this title the word "animal" includes every dumb
36 creature; the words "torment," "torture," and "cruelty" include
37 every act, omission, or neglect whereby unnecessary or
38 unjustifiable physical pain or suffering is caused or permitted; and
39 the words "owner" and "person" include corporations as well as
40 individuals; and the knowledge and acts of any agent of, or person

1 employed by, a corporation in regard to animals transported,
2 owned, or employed by, or in the custody of, ~~such~~ *the* corporation,
3 must be held to be the act and knowledge of ~~such~~ *the* corporation
4 as well as ~~such~~ *the* agent or ~~employé~~ *employee*.

5 SEC. 32. Section 653t of the Penal Code is amended to read:

6 653t. (a) A person commits a public offense if the person
7 knowingly and maliciously interrupts, disrupts, impedes, or
8 otherwise interferes with the transmission of a communication
9 over an amateur or a citizen's band radio frequency, the purpose
10 of which communication is to inform or inquire about an
11 emergency.

12 (b) For purposes of this section, "emergency" means a
13 condition or circumstance in which an individual is or is
14 reasonably believed by the person transmitting the communication
15 to be in imminent danger of serious bodily injury, in which
16 property is or is reasonably believed by the person transmitting the
17 communication to be in imminent danger of extensive damage or
18 destruction, or in which that injury or destruction has occurred and
19 the person transmitting is attempting to summon assistance.

20 (c) A violation of subdivision (a) is a misdemeanor punishable
21 by a fine not to exceed one thousand dollars (\$1,000), by
22 imprisonment in a county jail not to exceed six months, or by both,
23 unless, as a result of the commission of the offense, serious bodily
24 injury or property loss in excess of ten thousand dollars (\$10,000)
25 occurs, in which event the offense is a felony.

26 (d) Any person who knowingly and maliciously interrupts,
27 disrupts, impedes, or otherwise interferes with the transmission of
28 an emergency communication over a public safety radio
29 frequency, when the offense results in serious bodily injury or
30 property loss in excess of ten thousand dollars ~~(10,000)~~ *(\$10,000)*,
31 is guilty of a felony.

32 SEC. 33. Section 667.6 of the Penal Code is amended to read:

33 667.6. (a) Any person who is found guilty of violating
34 paragraph (2), (3), (6), or (7) of subdivision (a) of Section 261,
35 paragraph (1), (4), or (5) of subdivision (a) of Section 262, Section
36 264.1, subdivision (b) of Section 288, Section 288.5 or
37 subdivision (a) of Section 289, of committing sodomy in violation
38 of subdivision (k) of Section 286, of committing oral copulation
39 in violation of subdivision (k) of Section 288a, or of committing
40 sodomy or oral copulation in violation of Section 286 or 288a by

1 force, violence, duress, menace, or fear of immediate and unlawful
2 bodily injury on the victim or another person who has been
3 convicted previously of any of those offenses shall receive a
4 five-year enhancement for each of those prior convictions
5 provided that no enhancement shall be imposed under this
6 subdivision for any conviction occurring prior to a period of 10
7 years in which the person remained free of both prison custody and
8 the commission of an offense which results in a felony conviction.
9 In addition to the five-year enhancement imposed under this
10 subdivision, the court also may impose a fine not to exceed twenty
11 thousand dollars (\$20,000) for anyone sentenced under these
12 provisions. The fine imposed and collected pursuant to this
13 subdivision shall be deposited in the Victim-Witness Assistance
14 Fund to be available for appropriation to fund child sexual
15 exploitation and child sexual abuse victim counseling centers and
16 prevention programs established pursuant to Section 13837.

17 (b) Any person convicted of an offense specified in subdivision
18 (a) who has served two or more prior prison terms as defined in
19 Section 667.5 for any offense specified in subdivision (a), shall
20 receive a 10-year enhancement for each of those prior terms
21 provided that no additional enhancement shall be imposed under
22 this subdivision for any prison term served prior to a period of 10
23 years in which the person remained free of both prison custody and
24 the commission of an offense which results in a felony conviction.
25 In addition to the 10-year enhancement imposed under this
26 subdivision, the court also may impose a fine not to exceed twenty
27 thousand dollars (\$20,000) for any person sentenced under this
28 subdivision. The fine imposed and collected pursuant to this
29 subdivision shall be deposited in the Victim-Witness Assistance
30 Fund to be available for appropriation to fund child sexual
31 exploitation and child sexual abuse victim counseling centers and
32 prevention programs established pursuant to Section 13837.

33 (c) In lieu of the term provided in Section 1170.1, a full,
34 separate, and consecutive term may be imposed for each violation
35 of Section 220, other than an assault with intent to commit
36 mayhem, provided that the person has been convicted previously
37 of violating Section 220 for an offense other than an assault with
38 intent to commit mayhem, paragraph (2), ~~(6)~~, (3), (6), or (7) of
39 subdivision (a) of Section 261, paragraph (1), (4), or (5) of
40 subdivision (a) of Section 262, Section 264.1, subdivision (b) of



1 Section 288, Section 288.5 or subdivision (a) of Section 289, of
2 committing sodomy in violation of subdivision (k) of Section 286,
3 of committing oral copulation in violation of subdivision (k) of
4 Section 288a, or of committing sodomy or oral copulation in
5 violation of Section 286 or 288a by force, violence, duress,
6 menace, or fear of immediate and unlawful bodily injury on the
7 victim or another person whether or not the crimes were
8 committed during a single transaction. If the term is imposed
9 consecutively pursuant to this subdivision, it shall be served
10 consecutively to any other term of imprisonment, and shall
11 commence from the time the person otherwise would have been
12 released from imprisonment. The term shall not be included in any
13 determination pursuant to Section 1170.1. Any other term
14 imposed subsequent to that term shall not be merged therein but
15 shall commence at the time the person otherwise would have been
16 released from prison.

17 (d) A full, separate, and consecutive term shall be served for
18 each violation of Section 220, other than an assault with intent to
19 commit mayhem, provided that the person has been convicted
20 previously of violating Section 220 for an offense other than an
21 assault with intent to commit mayhem, paragraph (2), (3), (6), or
22 (7) of subdivision (a) of Section 261, paragraph (1), (4), or (5) of
23 subdivision (a) of Section 262, Section 264.1, subdivision (b) of
24 Section 288, subdivision (a) of Section 289, of committing
25 sodomy in violation of subdivision (k) of Section 286, of
26 committing oral copulation in violation of subdivision (k) of
27 Section 288a, or of committing sodomy or oral copulation in
28 violation of Section 286 or 288a by force, violence, duress,
29 menace, or fear of immediate and unlawful bodily injury on the
30 victim or another person if the crimes involve separate victims or
31 involve the same victim on separate occasions.

32 In determining whether crimes against a single victim were
33 committed on separate occasions under this subdivision, the court
34 shall consider whether, between the commission of one sex crime
35 and another, the defendant had a reasonable opportunity to reflect
36 upon his or her actions and nevertheless resumed sexually
37 assaultive behavior. Neither the duration of time between crimes,
38 nor whether or not the defendant lost or abandoned his or her
39 opportunity to attack, shall be, in and of itself, determinative on the

1 issue of whether the crimes in question occurred on separate
2 occasions.

3 The term shall be served consecutively to any other term of
4 imprisonment and shall commence from the time the person
5 otherwise would have been released from imprisonment. The term
6 shall not be included in any determination pursuant to Section
7 1170.1. Any other term imposed subsequent to that term shall not
8 be merged therein but shall commence at the time the person
9 otherwise would have been released from prison.

10 (e) If the court orders a fine to be imposed pursuant to
11 subdivision (a) or (b), the actual administrative cost of collecting
12 that fine, not to exceed 2 percent of the total amount paid, may be
13 paid into the general fund of the county treasury for the use and
14 benefit of the county.

15 SEC. 34. Section 803 of the Penal Code is amended to read:

16 803. (a) Except as provided in this section, a limitation of
17 time prescribed in this chapter is not tolled or extended for any
18 reason.

19 (b) No time during which prosecution of the same person for
20 the same conduct is pending in a court of this state is a part of a
21 limitation of time prescribed in this chapter.

22 (c) A limitation of time prescribed in this chapter does not
23 commence to run until the discovery of an offense described in this
24 subdivision. This subdivision applies to an offense punishable by
25 imprisonment in the state prison, a material element of which is
26 fraud or breach of a fiduciary obligation, the commission of the
27 crimes of theft or embezzlement upon an elder or dependent adult,
28 or the basis of which is misconduct in office by a public officer,
29 employee, or appointee, including, but not limited to, the
30 following offenses:

31 (1) Grand theft of any type, forgery, falsification of public
32 records, or acceptance of a bribe by a public official or a public
33 employee.

34 (2) A violation of Section 72, 118, 118a, 132, or 134.

35 (3) A violation of Section 25540, of any type, or Section 25541
36 of the Corporations Code.

37 (4) A violation of Section 1090 or 27443 of the Government
38 Code.

39 (5) Felony welfare fraud or Medi-Cal fraud in violation of
40 Section 11483 or 14107 of the Welfare and Institutions Code.



1 (6) Felony insurance fraud in violation of Section 548 or 550
2 of this code or former Section 1871.1, or Section 1871.4, of the
3 Insurance Code.

4 (7) A violation of Section 580, 581, 582, 583, or 584 of the
5 Business and Professions Code.

6 (8) A violation of Section 22430 of the Business and
7 Professions Code.

8 (9) A violation of Section 10690 of the Health and Safety Code.

9 (10) A violation of Section 529a.

10 (11) A violation of subdivision (d) or (e) of Section 368.

11 (d) If the defendant is out of the state when or after the offense
12 is committed, the prosecution may be commenced as provided in
13 Section 804 within the limitations of time prescribed by this
14 chapter, and no time up to a maximum of three years during which
15 the defendant is not within the state shall be a part of those
16 limitations.

17 (e) A limitation of time prescribed in this chapter does not
18 commence to run until the offense has been discovered, or could
19 have reasonably been discovered, with regard to offenses under
20 Division 7 (commencing with Section 13000) of the Water Code,
21 under Chapter 6.5 (commencing with Section 25100) of, Chapter
22 6.7 (commencing with Section 25280) of, or Chapter 6.8
23 (commencing with Section 25300) of, Division 20 of, or Part 4
24 (commencing with Section 41500) of Division 26 of, the Health
25 and Safety Code, or under Section 386, or offenses under Chapter
26 5 (commencing with Section 2000) of Division 2 of, Chapter 9
27 (commencing with Section 4000) of Division 2 of, Chapter 10
28 (commencing with Section 7301) of Division 3 of, or Chapter 19.5
29 (commencing with Section 22440) of Division 8 of, the Business
30 and Professions Code.

31 (f) (1) Notwithstanding any other limitation of time described
32 in this chapter, a criminal complaint may be filed within one year
33 of the date of a report to a responsible adult or agency by a child
34 under 18 years of age that the child is a victim of a crime described
35 in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

36 (2) For purposes of this subdivision, a “responsible adult” or
37 “agency” means a person or agency required to report pursuant to
38 Section 11166. This subdivision applies only if both of the
39 following occur:

1 (A) The limitation period specified in Section 800 or 801 has
2 expired.

3 (B) The defendant has committed at least one violation of
4 Section 261, 286, 288, 288a, 288.5, 289, or 289.5 against the same
5 victim within the limitation period specified for that crime in either
6 Section 800 or 801.

7 (3) (A) This subdivision applies to a cause of action arising
8 before, on, or after January 1, 1990, the effective date of this
9 subdivision, and it shall revive any cause of action barred by
10 Section 800 or 801 if any of the following occurred or occurs:

11 (i) The complaint or indictment was filed on or before January
12 1, 1997, and it was filed within the time period specified in this
13 subdivision.

14 (ii) The complaint or indictment is or was filed subsequent to
15 January 1, 1997, and it is or was filed within the time period
16 specified within this subdivision.

17 (iii) The victim made the report required by this subdivision to
18 a responsible adult or agency after January 1, 1990, and a
19 complaint or indictment was not filed within the time period
20 specified in this subdivision, but a complaint or indictment is filed
21 no later than 180 days after the date on which either a published
22 opinion of the California Supreme Court, deciding whether
23 retroactive application of this section is constitutional, becomes
24 final or the United States Supreme Court files an opinion deciding
25 the question of whether retroactive application of this subdivision
26 is constitutional, whichever occurs first.

27 (iv) The victim made the report required by this subdivision to
28 a responsible adult or agency after January 1, 1990, and a
29 complaint or indictment was filed within the time period specified
30 in this subdivision, but the indictment, complaint, or subsequently
31 filed information was dismissed, but a new complaint or
32 indictment is or was filed no later than 180 days after the date on
33 which either a published opinion of the California Supreme Court,
34 deciding whether retroactive application of this section is
35 constitutional, becomes final or the United States Supreme Court
36 files an opinion deciding the question of whether retroactive
37 application of this subdivision is constitutional, whichever occurs
38 first.

39 (B) (i) If the victim made the report required by this
40 subdivision to a responsible adult or agency after January 1, 1990,

1 and a complaint or indictment was filed within the time period
2 specified in this subdivision, but the indictment, complaint, or
3 subsequently filed information was dismissed, a new complaint or
4 indictment may be filed notwithstanding any other provision of
5 law, including, but not limited to, subdivision (c) of Section 871.5
6 and subdivision (b) of Section 1238.

7 (ii) An order dismissing an action filed under this subdivision,
8 which is entered or becomes effective at any time prior to 180 days
9 after the date on which either a published opinion of the California
10 Supreme Court, deciding the question of whether retroactive
11 application of this section is constitutional, becomes final or the
12 United States Supreme Court files an opinion deciding the
13 question of whether retroactive application of this subdivision is
14 constitutional, whichever occurs first, shall not be considered an
15 order terminating an action within the meaning of Section 1387.

16 (iii) Any ruling regarding the retroactivity of this subdivision
17 or its constitutionality made in the course of the previous
18 proceeding, including any review proceeding, shall not be binding
19 upon refiling.

20 (g) (1) Notwithstanding any other limitation of time described
21 in this chapter, a criminal complaint may be filed within one year
22 of the date of a report to a California law enforcement agency by
23 a person of any age alleging that he or she, while under the age of
24 18 years, was the victim of a crime described in Section 261, 286,
25 288, 288a, 288.5, 289, or 289.5.

26 (2) This subdivision applies only if both of the following occur:

27 (A) The limitation period specified in Section 800 or 801 has
28 expired.

29 (B) The crime involved substantial sexual conduct, as
30 described in subdivision (b) of Section 1203.066, excluding
31 masturbation that is not mutual, and there is independent evidence
32 that clearly and convincingly corroborates the victim's allegation.
33 No evidence may be used to corroborate the victim's allegation
34 that otherwise would be inadmissible during trial. Independent
35 evidence does not include the opinions of mental health
36 professionals.

37 (3) (A) This subdivision applies to a cause of action arising
38 before, on, or after January 1, 1994, the effective date of this
39 subdivision, and it shall revive any cause of action barred by
40 Section 800 or 801 if any of the following occurred or occurs:

1 (i) The complaint or indictment was filed on or before January
2 1, 1997, and it was filed within the time period specified in this
3 subdivision.

4 (ii) The complaint or indictment is or was filed subsequent to
5 January 1, 1997, and it is or was filed within the time period
6 specified within this subdivision.

7 (iii) The victim made the report required by this subdivision to
8 a law enforcement agency after January 1, 1994, and a complaint
9 or indictment was not filed within the time period specified in this
10 subdivision, but a complaint or indictment is filed no later than 180
11 days after the date on which either a published opinion of the
12 California Supreme Court, deciding the question of whether
13 retroactive application of this subdivision is constitutional,
14 becomes final or the United States Supreme Court files an opinion
15 deciding the question of whether retroactive application of this
16 subdivision is constitutional, whichever occurs first.

17 (iv) The victim made the report required by this subdivision to
18 a law enforcement agency after January 1, 1994, and a complaint
19 or indictment was filed within the time period specified in this
20 subdivision, but the indictment, complaint, or subsequently filed
21 information was dismissed, but a new complaint or indictment is
22 filed no later than 180 days after the date on which either a
23 published opinion of the California Supreme Court, deciding the
24 question of whether retroactive application of this subdivision is
25 constitutional, becomes final or the United States Supreme Court
26 files an opinion deciding the question of whether retroactive
27 application of this subdivision is constitutional, whichever occurs
28 first.

29 (B) (i) If the victim made the report required by this
30 subdivision to a law enforcement agency after January 1, 1994,
31 and a complaint or indictment was filed within the time period
32 specified in this subdivision, but the indictment, complaint, or
33 subsequently filed information was dismissed, a new complaint or
34 indictment may be filed notwithstanding any other provision of
35 law, including, but not limited to, subdivision (c) of Section 871.5
36 and subdivision (b) of Section 1238.

37 (ii) An order dismissing an action filed under this subdivision,
38 which is entered or becomes effective at any time prior to 180 days
39 after the date on which either a published opinion of the California
40 Supreme Court, deciding the question of whether retroactive

1 application of this section is constitutional, becomes final or the
2 United States Supreme Court files an opinion deciding the
3 question of whether retroactive application of this subdivision is
4 constitutional, whichever occurs first, shall not be considered an
5 order terminating an action within the meaning of Section 1387.

6 (iii) Any ruling regarding the retroactivity of this subdivision
7 or its constitutionality made in the course of the previous
8 proceeding, by any trial court or any intermediate appellate court,
9 shall not be binding upon refiling.

10 (h) (1) Notwithstanding any other limitation of time described
11 in this chapter, a criminal complaint may be filed within one year
12 of the date of a report to a California law enforcement agency by
13 a person under 21 years of age, alleging that he or she, while under
14 18 years of age, was the victim of a crime described in Section 261,
15 286, 288, 288a, 288.5, 289, or 289.5.

16 (2) This subdivision applies only if both of the following occur:

17 (A) The limitation period specified in Section 800 or 801 has
18 expired.

19 (B) The crime involved substantial sexual conduct, as
20 described in subdivision (b) of Section 1203.066, excluding
21 masturbation that is not mutual, and there is independent evidence
22 that corroborates the victim's allegation. No evidence may be used
23 to corroborate the victim's allegation that otherwise would be
24 inadmissible during trial. Independent evidence does not include
25 the opinions of mental health professionals.

26 (3) This subdivision applies to a cause of action arising before,
27 on, or after January 1, 2002, the effective date of this subdivision,
28 and it shall revive any cause of action barred by Section 800 or 801
29 if the complaint or indictment was filed within the time period
30 specified by this subdivision.

31 (i) (1) Notwithstanding the limitation of time described in
32 Section 800, the limitations period for commencing prosecution
33 for a felony offense described in subparagraph (A) of paragraph
34 (2) of subdivision (a) of Section 290, where the limitations period
35 set forth in Section 800 has not expired as of January 1, 2001, or
36 the offense is committed on or after January 1, 2001, shall be 10
37 years from the commission of the offense, or one year from the
38 date on which the identity of the suspect is conclusively
39 established by DNA testing, whichever is later, provided,
40 however, that the one-year period from the establishment of the

1 identity of the suspect shall only apply when either of the
2 following conditions is met:

3 (A) For an offense committed prior to January 1, 2001,
4 biological evidence collected in connection with the offense is
5 analyzed for DNA type no later than January 1, 2004.

6 (B) For an offense committed on or after January 1, 2001,
7 biological evidence collected in connection with the offense is
8 analyzed for DNA type no later than two years from the date of the
9 offense.

10 (2) In the event the conditions set forth in subparagraph (A) or
11 (B) of paragraph (1) are not met, the limitations period for
12 commencing prosecution for a felony offense described in
13 subparagraph (A) of paragraph (2) of subdivision (a) of Section
14 290, where the limitations period set forth in Section 800 has not
15 expired as of January 1, 2001, or the offense is committed on or
16 after January 1, 2001, shall be 10 years from the commission of the
17 offense.

18 (3) For purposes of this section, “DNA” means
19 deoxyribonucleic acid.

20 (j) *As used in subdivisions (f), (g), and (h), Section 289.5 refers*
21 *to the statute enacted by Chapter 233 of the Statutes of 1991,*
22 *penetration of an unknown object.*

23 SEC. 35. Section 969c of the Penal Code is repealed.

24 ~~969e. Whenever a defendant uses a weapon or was armed with~~
25 ~~a firearm under such circumstances as to bring such defendant~~
26 ~~within the operation of Section 12022 the fact that the defendant~~
27 ~~so used a weapon or was armed with a firearm may be charged in~~
28 ~~the accusatory pleading. This charge, if made, shall be added to~~
29 ~~and be a part of the count or each of the counts of the accusatory~~
30 ~~pleading which charge the offense at the time of the commission~~
31 ~~of which the defendant used a weapon or was armed with a firearm.~~
32 ~~That portion of any count which charges that the defendant used~~
33 ~~a weapon or was armed with a firearm shall be sufficient if it can~~
34 ~~be understood therefrom that at the time of his commission of the~~
35 ~~offense set forth in the count, the defendant used a weapon or was~~
36 ~~armed with a firearm. The nature of the weapon or firearm must~~
37 ~~be set forth. One such charge may name more than one weapon or~~
38 ~~firearm. If the defendant pleads not guilty of the offense charged~~
39 ~~in any count which alleges that the defendant used a weapon or was~~
40 ~~armed with a firearm, the question whether or not he used a~~

~~weapon or was armed with a firearm as alleged must be tried by the court or jury which tries the issue upon the plea of not guilty. If the defendant pleads guilty of the offense charged the question whether or not he used a weapon or was armed with a firearm as alleged must be determined by the court before pronouncing judgment.~~

SEC. 36. Section 969d of the Penal Code is repealed.

~~969d. Whenever a defendant used a firearm as recited in Section 12022.5, the fact that the defendant used a firearm may be charged in the accusatory pleading. This charge, if made, shall be added to and be a part of the count or each of the counts of the accusatory pleading which charged the offense. That portion of any count which charges that the defendant used a firearm shall be sufficient if it can be understood therefrom that at the time of his commission of the offense set forth in the count the defendant used a firearm. The nature of the firearm must be set forth. One such charge may name more than one firearm. If the defendant pleads not guilty to the offense charged in any count which alleges that the defendant used a firearm, the question whether or not he used a firearm as alleged must be tried by the court or jury which tries the issue upon the plea of not guilty. If the defendant pleads guilty of the offense charged the question whether or not he used a firearm as alleged must be determined by the court before pronouncing judgment.~~

SEC. 37. Section 1042 of the Penal Code is amended to read:

1042. Issues of fact shall be tried in the manner provided in Article I, section 7 16 of the Constitution of this State.

SEC. 38. Section 1203.1bb of the Penal Code is amended to read:

1203.1bb. (a) The reasonable cost of probation determined under subdivision (a) of Section 1203.1b shall include the cost of purchasing and installing an ignition interlock device pursuant to Section 13386 of the Vehicle Code. Any defendant subject to this section shall pay the manufacturer of the ignition interlock device directly for the cost of its purchase and installation, in accordance with the payment schedule ordered by the court. If practicable, the court shall order payment to be made to the manufacturer of the ignition interlock device within a six-month period.

~~This subdivision~~

1 **(b)** *This section* does not require any county to pay the costs of
2 purchasing and installing any ignition interlock devices ordered
3 pursuant to Section 13386 of the Vehicle Code. The Office of
4 Traffic Safety shall consult with the presiding judge or his or her
5 designee in each county to determine an appropriate means, if any,
6 to provide for installation of ignition interlock devices in cases in
7 which the defendant has no ability to pay.

8 SEC. 39. Section 1203.72 of the Penal Code is amended to
9 read:

10 1203.72. ~~No~~ *Except as provided in subparagraph (D) of*
11 *paragraph (2) of subdivision (b) of Section 1203, no* court shall
12 pronounce judgment upon any defendant, as to whom the court has
13 requested a probation report pursuant to Section 1203.7, unless a
14 copy of the probation report has been made available to the court,
15 the prosecuting attorney, and the defendant or his or her attorney,
16 at least two days or, upon the request of the defendant, five days
17 prior to the time fixed by the court for consideration of the report
18 with respect to pronouncement of judgment. The report shall be
19 filed with the clerk of the court as a record in the case at the time
20 the court considers the report.

21 If the defendant is not represented by an attorney, the court,
22 upon ordering the probation report, shall also order the probation
23 officer who prepares the report to discuss its contents with the
24 defendant.

25 SEC. 40. Section 1203.73 of the Penal Code is amended to
26 read:

27 1203.73. The probation officers and deputy probation officers
28 in all counties of the state shall be allowed such necessary
29 incidental expenses incurred in the performance of their duties as
30 required by any law of this state, as may be authorized by a judge
31 of the superior court; and the same shall be a charge upon the
32 county in which the court appointing them has jurisdiction and
33 shall be paid out of the county treasury upon a ~~warrant~~ *warrant*
34 issued therefor by the county auditor upon the order of the court;
35 provided, however, that in counties in which the probation officer
36 is appointed by the board of supervisors, the expenses shall be
37 authorized by the probation officer and claims therefor shall be
38 audited, allowed and paid in the same manner as other county
39 claims.

1 SEC. 41. Section 1524.1 of the Penal Code is amended to
2 read:

3 1524.1. (a) The primary purpose of the testing and disclosure
4 provided in this section is to benefit the victim of a crime by
5 informing the victim whether the defendant is infected with the
6 HIV virus. It is also the intent of the Legislature in enacting this
7 section to protect the health of both victims of crime and those
8 accused of committing a crime. Nothing in this section shall be
9 construed to authorize mandatory testing or disclosure of test
10 results for the purpose of a charging decision by a prosecutor, nor,
11 except as specified in subdivisions (g) and (i), shall this section be
12 construed to authorize breach of the confidentiality provisions
13 contained in Chapter 7 (commencing with Section 120975) of Part
14 4 of Division 105 of the Health and Safety Code.

15 (b) (1) Notwithstanding the provisions of Chapter 7
16 (commencing with Section 120975) of Part 4 of Division 105 of
17 the Health and Safety Code, when a defendant has been charged
18 by complaint, information, or indictment with a crime, or a minor
19 is the subject of a petition filed in juvenile court alleging the
20 commission of a crime, the court, at the request of the victim, may
21 issue a search warrant for the purpose of testing the accused's
22 blood with any HIV test, as defined in Section 120775 of the
23 Health and Safety Code only under the following circumstances:
24 when the court finds, upon the conclusion of the hearing described
25 in paragraph (3), or in those cases in which a preliminary hearing
26 is not required to be held, the court also finds that there is probable
27 cause to believe that the accused committed the offense, and that
28 there is probable cause to believe that blood, semen, or any other
29 body fluid identified by the State Department of Health Services
30 in appropriate regulations as capable of transmitting the human
31 immunodeficiency virus has been transferred from the accused to
32 the victim.

33 (2) Notwithstanding Chapter 7 (commencing with Section
34 120975) of Part 4 of Division 105 of the Health and Safety Code,
35 when a defendant has been charged by complaint, information, or
36 indictment with a crime under Section 220, 261, 261.5, 262, 264.1,
37 286, 288, 288a, 288.5, 289, or 289.5, and is the subject of a police
38 report alleging the commission of a separate, uncharged offense
39 that could be charged under Section 220, 261, 261.5, 262, 264.1,
40 286, 288, 288a, 288.5, 289, or 289.5, or a minor is the subject of



1 a petition filed in juvenile court alleging the commission of a crime
2 under Section 220, 261, 261.5, 262, 264.1, 286, 288, 288a, 288.5,
3 289, or 289.5, and is the subject of a police report alleging the
4 commission of a separate, uncharged offense that could be charged
5 under Section 220, 261, 261.5, 262, 264.1, 286, 288, 288a, 288.5,
6 289, or 289.5, the court, at the request of the victim of the
7 uncharged offense, may issue a search warrant for the purpose of
8 testing the accused's blood with any HIV test, as defined in Section
9 120775 of the Health and Safety Code only under the following
10 circumstances: when the court finds that there is probable cause to
11 believe that the accused committed the uncharged offense, and that
12 there is probable cause to believe that blood, semen, or any other
13 body fluid identified by the State Department of Health Services
14 in appropriate regulations as capable of transmitting the human
15 immunodeficiency virus has been transferred from the accused to
16 the victim. *As used in this paragraph, Section 289.5 refers to the*
17 *statute enacted by Chapter 293 of the Statutes of 1991, penetration*
18 *of an unknown object.*

19 (3) (A) Prior to the issuance of a search warrant pursuant to
20 paragraph (1), the court, where applicable and at the conclusion of
21 the preliminary examination if the defendant is ordered to answer
22 pursuant to Section 872, shall conduct a hearing at which both the
23 victim and the defendant have the right to be present. During the
24 hearing, only affidavits, counter affidavits, and medical reports
25 regarding the facts that support or rebut the issuance of a search
26 warrant under paragraph (1) shall be admissible.

27 (B) Prior to the issuance of a search warrant pursuant to
28 paragraph (2), the court, where applicable, shall conduct a hearing
29 at which both the victim and the defendant are present. During the
30 hearing, only affidavits, counter affidavits, and medical reports
31 regarding the facts that support or rebut the issuance of a search
32 warrant under paragraph (2) shall be admissible.

33 (4) A request for a probable cause hearing made by a victim
34 under paragraph (2) shall be made before sentencing in the
35 municipal or superior court, or before disposition on a petition in
36 a juvenile court, of the criminal charge or charges filed against the
37 defendant.

38 (c) (1) In all cases in which the person has been charged by
39 complaint, information, or indictment with a crime, or is the
40 subject of a petition filed in a juvenile court alleging the

1 commission of a crime, the prosecutor shall advise the victim of
2 his or her right to make this request. To assist the victim of the
3 crime to determine whether he or she should make this request, the
4 prosecutor shall refer the victim to the local health officer for
5 prerequisite counseling to help that person understand the extent to
6 which the particular circumstances of the crime may or may not
7 have put the victim at risk of transmission of HIV from the
8 accused, to ensure that the victim understands both the benefits and
9 limitations of the current tests for HIV, to help the victim decide
10 whether he or she wants to request that the accused be tested, and
11 to help the victim decide whether he or she wants to be tested.

12 (2) The Department of Justice, in cooperation with the
13 California District Attorneys Association, shall prepare a form to
14 be used in providing victims with the notice required by paragraph
15 (1).

16 (d) If the victim decides to request HIV testing of the accused,
17 the victim shall request the issuance of a search warrant, as
18 described in subdivision (b).

19 Neither the failure of a prosecutor to refer or advise the victim
20 as provided in this subdivision, nor the failure or refusal by the
21 victim to seek or obtain counseling, shall be considered by the
22 court in ruling on the victim's request.

23 (e) The local health officer shall make provision for
24 administering all HIV tests ordered pursuant to subdivision (b).

25 (f) Any blood tested pursuant to subdivision (b) shall be
26 subjected to appropriate confirmatory tests to ensure accuracy of
27 the first test results, and under no circumstances shall test results
28 be transmitted to the victim or the accused unless any initially
29 reactive test result has been confirmed by appropriate
30 confirmatory tests for positive reactors.

31 (g) The local health officer shall have the responsibility for
32 disclosing test results to the victim who requested the test and to
33 the accused who was tested. However, no positive test results shall
34 be disclosed to the victim or to the accused without also providing
35 or offering professional counseling appropriate to the
36 circumstances.

37 (h) The local health officer and victim shall comply with all
38 laws and policies relating to medical confidentiality subject to the
39 disclosure authorized by subdivisions (g) and (i). Any individual
40 who files a false report of sexual assault in order to obtain test

1 result information pursuant to this section shall, in addition to any
2 other liability under law, be guilty of a misdemeanor punishable
3 as provided in subdivision (c) of Section 120980 of the Health and
4 Safety Code. Any individual as described in the preceding
5 sentence who discloses test result information obtained pursuant
6 to this section shall also be guilty of an additional misdemeanor
7 punishable as provided for in subdivision (c) of Section 120980 of
8 the Health and Safety Code for each separate disclosure of that
9 information.

10 (i) Any victim who receives information from the health
11 officer pursuant to subdivision (g) may disclose the test results as
12 the victim deems necessary to protect his or her health and safety
13 or the health and safety of his or her family or sexual partner.

14 (j) Any person transmitting test results or disclosing
15 information pursuant to this section shall be immune from civil
16 liability for any actions taken in compliance with this section.

17 (k) The results of any blood tested pursuant to subdivision (b)
18 shall not be used in any criminal proceeding as evidence of either
19 guilt or innocence.

20 SEC. 42. Section 2933.1 of the Penal Code is amended to
21 read:

22 2933.1. (a) Notwithstanding any other law, any person who
23 is convicted of a felony offense listed in *subdivision (c) of Section*
24 667.5 shall accrue no more than 15 percent of worktime credit, as
25 defined in Section 2933.

26 (b) The 15 percent limitation provided in subdivision (a) shall
27 apply whether the defendant is sentenced under Chapter 4.5
28 (commencing with Section 1170) of Title 7 of Part 2 or sentenced
29 under some other law. However, nothing in subdivision (a) shall
30 affect the requirement of any statute that the defendant serve a
31 specified period of time prior to minimum parole eligibility, nor
32 shall any offender otherwise statutorily ineligible for credit be
33 eligible for credit pursuant to this section.

34 (c) Notwithstanding Section 4019 or any other provision of
35 law, the maximum credit that may be earned against a period of
36 confinement in, or commitment to, a county jail, industrial farm,
37 or road camp, or a city jail, industrial farm, or road camp,
38 following arrest and prior to placement in the custody of the
39 Director of Corrections, shall not exceed 15 percent of the actual
40 period of confinement for any person specified in subdivision (a).

(d) This section shall only apply to offenses listed in subdivision (a) that are committed on or after the date on which this section becomes operative.

SEC. 43. Section 3001 of the Penal Code is amended to read:

3001. (a) Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 who was not imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, has been released on parole from the state prison, and has been on parole continuously for one year since release from confinement, within 30 days, that person shall be discharged from parole, unless the Department of Corrections recommends to the Board of Prison Terms that the person be retained on parole and the board, for good cause, determines that the person will be retained. Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 who was imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, has been released on parole from the state prison, and has been on parole continuously for two years since release from confinement *for a person subject to three years on parole or has been on parole continuously for three years since release from confinement for a person subject to five years on parole*, the department shall discharge, within 30 days, that person from parole, unless the department recommends to the board that the person be retained on parole and the board for good cause, determines that the person will be retained. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

(b) Notwithstanding any other provision of law, when any person referred to in paragraph (2) *or (3)* of subdivision (b) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for three years since release from confinement *or since extension of parole*, the board shall discharge, within 30 days, the person from parole, unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

1 (c) In the event of a retention on parole, the parolee shall be
2 entitled to a review by the parole authority each year thereafter
3 until the maximum statutory period of parole has expired.

4 (d) The amendments to this section made during the 1987–88
5 Regular Session of the Legislature shall only be applied
6 prospectively and shall not extend the parole period for any person
7 whose eligibility for discharge from parole was fixed as of the
8 effective date of those amendments.

9 SEC. 44. Section 4501.1 of the Penal Code is amended to
10 read:

11 4501.1. (a) Every person confined in the state prison who
12 commits a battery by gassing upon the person of any peace officer,
13 as defined in Chapter 4.5 (commencing with Section 830) of Title
14 3 of Part 2, or employee of the state prison is guilty of aggravated
15 battery and shall be punished by imprisonment in a county jail or
16 by imprisonment in the state prison for two, three, or four years.
17 Every state prison inmate convicted of a felony under this section
18 shall serve his or her term of imprisonment ~~as prescribed in Section~~
19 ~~4501.5~~ *consecutively*.

20 (b) For purposes of this section, “gassing” means intentionally
21 placing or throwing, or causing to be placed or thrown, upon the
22 person of another, any human excrement or other bodily fluids or
23 bodily substances or any mixture containing human excrement or
24 other bodily fluids or bodily substances that results in actual
25 contact with the person’s skin or membranes.

26 (c) The warden or other person in charge of the state prison
27 shall use every available means to immediately investigate all
28 reported or suspected violations of subdivision (a), including, but
29 not limited to, the use of forensically acceptable means of
30 preserving and testing the suspected gassing substance to confirm
31 the presence of human excrement or other bodily fluids or bodily
32 substances. If there is probable cause to believe that the inmate has
33 violated subdivision (a), the chief medical officer of the state
34 prison or his or her designee, may, when he or she deems it
35 medically necessary to protect the health of an officer or employee
36 who may have been subject to a violation of this section, order the
37 inmate to receive an examination or test for hepatitis or
38 tuberculosis or both hepatitis and tuberculosis on either a
39 voluntary or involuntary basis immediately after the event, and
40 periodically thereafter as determined to be necessary by the

1 medical officer in order to ensure that further hepatitis or
2 tuberculosis transmission does not occur. These decisions shall be
3 consistent with an occupational exposure as defined by the Center
4 for Disease Control and Prevention. The results of any
5 examination or test shall be provided to the officer or employee
6 who has been subject to a reported or suspected violation of this
7 section. Nothing in this subdivision shall be construed to otherwise
8 supersede the operation of Title 8 (commencing with Section
9 7500). Any person performing tests, transmitting test results, or
10 disclosing information pursuant to this section shall be immune
11 from civil liability for any action taken in accordance with this
12 section.

13 (d) The warden or other person in charge of the state prison
14 shall refer all reports for which there is probable cause to believe
15 that the inmate has violated subdivision (a) to the local district
16 attorney for prosecution.

17 (e) The Department of Corrections shall report to the
18 Legislature, by January 1, 2000, its findings and recommendations
19 on gassing incidents at the state prison and the medical testing
20 authorized by this section. The report shall include, but not be
21 limited to, all of the following:

22 (1) The total number of gassing incidents at each state prison
23 facility up to the date of the report.

24 (2) The disposition of each gassing incident, including the
25 administrative penalties imposed, the number of incidents that are
26 prosecuted, and the results of those prosecutions, including any
27 penalties imposed.

28 (3) A profile of the inmates who commit the aggravated
29 batteries, including the number of inmates who have one or more
30 prior serious or violent felony convictions.

31 (4) Efforts that the department has taken to limit these
32 incidents, including staff training and the use of protective
33 clothing and goggles.

34 (5) The results and costs of the medical testing authorized by
35 this section.

36 (f) Nothing in this section shall preclude prosecution under
37 both this section and any other provision of law.

38 SEC. 45. Section 5058 of the Penal Code is amended to read:

39 5058. (a) The director may prescribe and amend rules and
40 regulations for the administration of the prisons and for the

1 administration of the parole of persons sentenced under Section
2 1170 except those persons who meet the criteria set forth in Section
3 2962. The rules and regulations shall be promulgated and filed
4 pursuant to Chapter 3.5 (commencing with Section 11340) of Part
5 1 of Division 3 of Title 2 of the Government Code, except as
6 otherwise provided in this section and Sections 5058.1 to 5058.3,
7 inclusive. All rules and regulations shall, to the extent practical, be
8 stated in language that is easily understood by the general public.

9 For any rule or regulation filed as regular rulemaking as defined
10 in paragraph (5) of subdivision (a) of Section 1 of Title 1 of the
11 California Code of Regulations, copies of the rule or regulation
12 shall be posted in conspicuous places throughout each institution
13 and shall be mailed to all persons or organizations who request
14 them no less than 20 days prior to its effective date.

15 (b) The director shall maintain, publish and make available to
16 the general public, a compendium of the rules and regulations
17 promulgated by the director pursuant to this section and Sections
18 5058.1 to 5058.3, inclusive.

19 (c) The following are deemed not to be “regulations” as
20 defined in Section 11342.600 of the Government Code:

21 (1) Rules issued by the director applying solely to a particular
22 prison or other correctional facility, provided that the following
23 conditions are met:

24 (A) All rules that apply to prisons or other correctional
25 facilities throughout the state are adopted by the director pursuant
26 to Chapter 3.5 (commencing with Section 11340) of Part 1 of
27 Division 3 of Title 2 of the Government Code.

28 (B) All rules except those that are excluded from disclosure to
29 the public pursuant to subdivision (f) of Section 6254 of the
30 Government Code are made available to all inmates confined in
31 the particular prison or other correctional facility to which the
32 rules apply and to all members of the general public.

33 (2) Short-term criteria for the placement of inmates in a new
34 prison or other correctional facility, or subunit thereof, during its
35 first six months of operation, or in a prison or other correctional
36 facility, or subunit thereof, planned for closing during its last six
37 months of operation, provided that the criteria are made available
38 to the public and that an estimate of fiscal impact is completed
39 pursuant to Sections 6650 to 6670, inclusive, of the State
40 Administrative Manual.

(3) Rules issued by the director ~~or director's designee~~ that are excluded from disclosure to the public pursuant to subdivision (f) of Section 6254 of the Government Code.

SEC. 46. Section 11051 of the Penal Code is amended to read:

11051. The Department of Justice shall perform ~~such other~~ duties in the investigation, detection, apprehension, prosecution or suppression of crimes as may be assigned by the Attorney General in the performance of his *or her* duties under Article V, Section 24 ~~13~~ of the Constitution.

SEC. 47. Section 11460 of the Penal Code is amended to read:

11460. (a) Any two or more persons who assemble as a paramilitary organization for the purpose of practicing with weapons shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than one thousand dollars (\$1,000), or by both *that fine and imprisonment*.

As used in this subdivision, "paramilitary organization" means an organization which is not an agency of the United States government or of the State of California, or which is not a private school meeting the requirements set forth in Section ~~12154~~ ~~48222~~ of the Education Code, but which engages in instruction or training in ~~guerilla~~ *guerrilla* warfare or sabotage, or which, as an organization, engages in rioting or the violent disruption of, or the violent interference with, school activities.

(b) (1) Any person who teaches or demonstrates to any other person the use, application, or making of any firearm, explosive, or destructive device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that such objects or techniques will be unlawfully employed for use in, or in the furtherance of a civil disorder, or any person who assembles with one or more other persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, explosive, or destructive device, or technique capable of causing injury or death to persons, with the intent to cause or further a civil disorder, shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than one thousand dollars (\$1,000), or by both.

Nothing in this subdivision shall make unlawful any act of any peace officer or a member of the military forces of this state or of the United States, performed in the lawful course of his official duties.

1 (2) As used in this section:

2 (A) “Civil disorder” means any disturbance involving acts of
3 violence which cause an immediate danger of or results in damage
4 or injury to the property or person of any other individual.

5 (B) “Destructive device” has the same meaning as in Section
6 12301.

7 (C) “Explosive” has the same meaning as in Section 12000 of
8 the Health and Safety Code.

9 (D) “Firearm” means any device designed to be used as a
10 weapon, or which may readily be converted to a weapon, from
11 which is expelled a projectile by the force of any explosion or other
12 form of combustion, or the frame or receiver of any such weapon.

13 (E) “Peace officer” means any peace officer or other officer
14 having the powers of arrest of a peace officer, specified in Chapter
15 4.5 (commencing with Section 830) of Title 3 of Part 2.

16 SEC. 48. Section 12280 of the Penal Code is amended to read:

17 12280. (a) (1) Any person who, within this state,
18 manufactures or causes to be manufactured, distributes,
19 transports, or imports into the state, keeps for sale, or offers or
20 exposes for sale, or who gives or lends any assault weapon, except
21 as provided by this chapter, is guilty of a felony, and upon
22 conviction shall be punished by imprisonment in the state prison
23 for four, six, or eight years.

24 (2) In addition and consecutive to the punishment imposed
25 under paragraph (1), any person who transfers, lends, sells, or
26 gives any assault weapon to a minor in violation of paragraph (1)
27 shall receive an enhancement of one year.

28 (b) Except as provided in Section 12288, and in subdivisions
29 (c) and (d), any person who, within this state, possesses any assault
30 weapon, except as provided in this chapter, is guilty of a public
31 offense and upon conviction shall be punished by imprisonment in
32 the state prison, or in a county jail, not exceeding one year.
33 However, if the person presents proof that he or she lawfully
34 possessed the assault weapon prior to June 1, 1989, or prior to the
35 date it was specified as an assault weapon, and has since either
36 registered the firearm and any other lawfully obtained firearm
37 specified by Section 12276 or 12276.5 pursuant to Section 12285
38 or relinquished them pursuant to Section 12288, a first-time
39 violation of this subdivision shall be an infraction punishable by
40 a fine of up to five hundred dollars (\$500), but not less than three



1 hundred fifty dollars (\$350), if the person has otherwise possessed
2 the firearm in compliance with subdivision (c) of Section 12285.
3 In these cases, the firearm shall be returned unless the court finds
4 in the interest of public safety, after notice and hearing, that the
5 assault weapon should be destroyed pursuant to Section 12028.

6 (c) A first-time violation of subdivision (b) shall be an
7 infraction punishable by a fine of up to five hundred dollars
8 (\$500), if the person was found in possession of no more than two
9 firearms in compliance with subdivision (c) of Section 12285 and
10 the person meets all of the following conditions:

11 (1) The person proves that he or she lawfully possessed the
12 assault weapon prior to the date it was defined as an assault weapon
13 pursuant to Section 12276.1.

14 (2) The person is not found in possession of a firearm specified
15 as an assault weapon pursuant to Section 12276 or Section
16 12276.5.

17 (3) The person has not previously been convicted of violating
18 this section.

19 (4) The person was found to be in possession of the assault
20 weapons within one year following the end of the one-year
21 registration period established pursuant to subdivision (a) of
22 Section 12285.

23 (5) The person has since registered the firearms and any other
24 lawfully obtained firearms defined by Section 12276.1, pursuant
25 to Section 12285, except as provided for by this section, or
26 relinquished them pursuant to Section 12288.

27 (d) Firearms seized pursuant to subdivision (c) shall be
28 returned unless the court finds in the interest of public safety, after
29 notice and hearing, that the assault weapon should be destroyed
30 pursuant to Section 12028.

31 (e) Notwithstanding Section 654 or any other provision of law,
32 any person who commits another crime while violating this section
33 may receive an additional, consecutive punishment of one year for
34 violating this section in addition and consecutive to the
35 punishment, including enhancements, which is prescribed for the
36 other crime.

37 (f) Subdivisions (a) and (b) shall not apply to the sale to,
38 purchase by, or possession of assault weapons by the Department
39 of Justice, police departments, sheriffs' offices, marshals' offices,
40 the Youth and Adult Corrections Agency, the Department of the

1 California Highway Patrol, district attorneys' offices, Department
2 of Fish and Game, Department of Parks and Recreation, or the
3 military or naval forces of this state or of the United States, or any
4 federal law enforcement agency for use in the discharge of their
5 official duties.

6 (g) (1) Subdivision (b) shall not prohibit the possession or use
7 of assault weapons by sworn peace officer members of those
8 agencies specified in subdivision (f) for law enforcement
9 purposes, whether on or off duty.

10 (2) Subdivisions (a) and (b) shall not prohibit the delivery,
11 transfer, or sale of an assault weapon to, or the possession of an
12 assault weapon by, a sworn peace officer member of an agency
13 specified in subdivision (f), provided that the peace officer is
14 authorized by his or her employer to ~~posses~~ possess or receive the
15 assault weapon. Required authorization is defined as verifiable
16 written certification from the head of the agency, identifying the
17 recipient or possessor of the assault weapon as a peace officer and
18 authorizing him or her to receive or possess the specific assault
19 weapon. For this exemption to apply, in the case of a peace officer
20 who possesses or receives the assault weapon prior to January 1,
21 2002, the officer shall register the assault weapon pursuant to
22 Section 12285 on or before April 1, 2002; in the case of a peace
23 officer who possesses or receives the assault weapon on or after
24 January 1, 2002, the officer shall register the assault weapon
25 pursuant to Section 12285 not later than 90 days after possession
26 or receipt. The peace officer must include with the registration, a
27 copy of the authorization required pursuant to this paragraph.

28 (3) Nothing in this section shall be construed to limit or prohibit
29 the delivery, transfer, or sale of an assault weapon to, or the
30 possession of an assault weapon by, a member of a federal law
31 enforcement agency provided that person is authorized by the
32 employing agency to possess the assault weapon.

33 (h) Subdivisions (a) and (b) shall not prohibit the sale or
34 transfer of assault weapons by an entity specified in subdivision (f)
35 to a person, upon retirement, who retired as a sworn officer from
36 that entity.

37 (i) Subdivision (b) shall not apply to the possession of an
38 assault weapon by a retired peace officer who received that assault
39 weapon pursuant to subdivision (h).

(j) Subdivision (b) shall not apply to the possession of an assault weapon, as defined in Section 12276, by any person during the 1990 calendar year, during the 90-day period immediately after the date it was specified as an assault weapon pursuant to Section 12276.5, or during the one-year period after the date it was defined as an assault weapon pursuant to Section 12276.1, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989, if the weapon is specified as an assault weapon pursuant to Section 12276, or prior to the date it was specified as an assault weapon pursuant to Section 12276.5, or prior to the date it was defined as an assault weapon pursuant to Section 12276.1.

(3) The person is otherwise in compliance with this chapter.

(k) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (f).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(l) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i) which is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(m) Subdivision (b) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i), if the assault weapon is possessed

1 at a place set forth in paragraph (1) of subdivision (c) of Section
2 12285 or as authorized by the probate court.

3 (n) Subdivision (a) shall not apply to:

4 (1) A person who lawfully possesses and has registered an
5 assault weapon pursuant to this chapter, or who lawfully possesses
6 an assault weapon pursuant to subdivision (i), who lends that
7 assault weapon to another if all the following apply:

8 (A) The person to whom the assault weapon is lent is 18 years
9 of age or over and is not in a class of persons prohibited from
10 possessing firearms by virtue of Section 12021 or 12021.1 of this
11 code or Section 8100 or 8103 of the Welfare and Institutions Code.

12 (B) The person to whom the assault weapon is lent remains in
13 the presence of the registered possessor of the assault weapon, or
14 the person who lawfully possesses an assault weapon pursuant to
15 subdivision (i).

16 (C) The assault weapon is possessed at any of the following
17 locations:

18 (i) While on a target range that holds a regulatory or business
19 license for the purpose of practicing shooting at that target range.

20 (ii) While on the premises of a target range of a public or private
21 club or organization organized for the purpose of practicing
22 shooting at targets.

23 (iii) While attending any exhibition, display, or educational
24 project that is about firearms and that is sponsored by, conducted
25 under the auspices of, or approved by a law enforcement agency
26 or a nationally or state recognized entity that fosters proficiency
27 in, or promotes education about, firearms.

28 (2) The return of an assault weapon to the registered possessor,
29 or the lawful possessor, which is lent by the same pursuant to
30 paragraph (1).

31 (o) Subdivision (b) shall not apply to the possession of an
32 assault weapon by a person to whom an assault weapon is lent
33 pursuant to subdivision (n).

34 (p) Subdivisions (a) and (b) shall not apply to the possession
35 and importation of an assault weapon into this state by a
36 nonresident if all of the following conditions are met:

37 (1) The person is attending or going directly to or coming
38 directly from an organized competitive match or league
39 competition that involves the use of an assault weapon.

1 (2) The competition or match is conducted on the premises of
2 one of the following:

3 (i) A target range that holds a regulatory or business license for
4 the purpose of practicing shooting at that target range.

5 (ii) A target range of a public or private club or organization
6 that is organized for the purpose of practicing shooting at targets.

7 (3) The match or competition is sponsored by, conducted under
8 the auspices of, or approved by, a law enforcement agency or a
9 nationally or state recognized entity that fosters proficiency in, or
10 promotes education about, firearms.

11 (4) The assault weapon is transported in accordance with
12 Section 12026.1 or 12026.2.

13 (5) The person is 18 years of age or over and is not in a class
14 of persons prohibited from possessing firearms by virtue of
15 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
16 the Welfare and Institutions Code.

17 (q) Subdivision (b) shall not apply to any of the following
18 persons:

19 (1) A person acting in accordance with Section 12286.

20 (2) A person who has a permit to possess an assault weapon
21 issued pursuant to Section 12286 when he or she is acting in
22 accordance with Section 12285 or 12286.

23 (r) Subdivisions (a) and (b) shall not apply to any of the
24 following persons:

25 (1) A person acting in accordance with Section 12285.

26 (2) A person acting in accordance with Section 12286 or
27 12290.

28 (s) Subdivision (b) shall not apply to the registered owner of an
29 assault weapon possessing that firearm in accordance with
30 subdivision (c) of Section 12285.

31 (t) Subdivision (a) shall not apply to the importation into this
32 state of an assault weapon by the registered owner of that assault
33 weapon, if it is in accordance with the provisions of subdivision
34 (c) of Section 12285.

35 (u) As used in this chapter, the date a firearm is an assault
36 weapon is the earliest of the following:

37 (1) The effective date of an amendment to Section 12276 that
38 adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

(3) The operative date of Section 12276.1, as specified in subdivision (d) of that section.

SEC. 49. Section 13823.11 of the Penal Code is amended to read:

13823.11. The minimum standards for the examination and treatment of victims of sexual assault or attempted sexual assault, including child molestation and the collection and preservation of evidence therefrom include all of the following:

(a) Law enforcement authorities shall be notified.

(b) In conducting the physical examination, the outline indicated in the form adopted pursuant to subdivision (c) of Section 13823.5 shall be followed.

(c) Consent for a physical examination, treatment, and collection of evidence shall be obtained.

(1) Consent to an examination for evidence of sexual assault shall be obtained prior to the examination of a victim of sexual assault and shall include separate written documentation of consent to each of the following:

(A) Examination for the presence of injuries sustained as a result of the assault.

(B) Examination for evidence of sexual assault and collection of physical evidence.

(C) Photographs of injuries.

(2) Consent to treatment shall be obtained in accordance with usual hospital policy.

(3) A victim of sexual assault shall be informed that he or she may refuse to consent to an examination for evidence of sexual assault, including the collection of physical evidence, but that such a refusal is not a ground for denial of treatment of injuries and for possible pregnancy and ~~veneral~~ *venereal* disease, if the person wishes to obtain treatment and consents thereto.

(4) Pursuant to Chapter 3 (commencing with Section 6920) of Part 4 of Division 11 of the Family Code, a minor may consent to hospital, medical, and surgical care related to a sexual assault without the consent of a parent or guardian.

(5) In cases of known or suspected child abuse, the consent of the parents or legal guardian is not required. In the case of

1 suspected child abuse and nonconsenting parents, the consent of
2 the local agency providing child protective services or the local
3 law enforcement agency shall be obtained. Local procedures
4 regarding obtaining consent for the examination and treatment of,
5 and the collection of evidence from, children from child protective
6 authorities shall be followed.

7 (d) A history of sexual assault shall be taken.

8 The history obtained in conjunction with the examination for
9 evidence of sexual assault shall follow the outline of the form
10 established pursuant to subdivision (c) of Section 13823.5 and
11 shall include all of the following:

12 (1) A history of the circumstances of the assault.

13 (2) For a child, any previous history of child sexual abuse and
14 an explanation of injuries, if different from that given by parent or
15 person accompanying the child.

16 (3) Physical injuries reported.

17 (4) Sexual acts reported, whether or not ejaculation is
18 suspected, and whether or not a condom or lubricant was used.

19 (5) Record of relevant medical history.

20 (e) Each adult and minor victim of sexual assault who consents
21 to a medical examination for collection of evidentiary material
22 shall have a physical examination which includes, but is not
23 limited to, all of the following:

24 (1) Inspection of the clothing, body, and external genitalia for
25 injuries and foreign materials.

26 (2) Examination of the mouth, vagina, cervix, penis, anus, and
27 rectum, as indicated.

28 (3) Documentation of injuries and evidence collected.

29 ~~Prepubital~~ *Prepubertal* children shall not have internal vaginal
30 or anal examinations unless absolutely necessary (this does not
31 preclude careful collection of evidence using a swab).

32 (f) The collection of physical evidence shall conform to the
33 following procedures:

34 (1) Each victim of sexual assault who consents to an
35 examination for collection of evidence shall have the following
36 items of evidence collected, except where he or she specifically
37 objects:

38 (A) Clothing worn during assault.

39 (B) Foreign materials revealed by an examination of the
40 clothing, body, external genitalia, and pubic hair combings.

1 (C) Swabs and slides from the mouth, vagina, rectum, and
2 penis, as indicated, to determine the presence or absence of sperm
3 and sperm motility, and for genetic marker typing.

4 (2) Each victim of sexual assault who consents to an
5 examination for the collection of evidence shall have reference
6 specimens taken, except when he or she specifically objects
7 thereto. A reference specimen is a standard from which to obtain
8 baseline information (for example: pubic and head hair, blood, and
9 saliva for genetic marker typing). These specimens shall be taken
10 in accordance with the standards of the local criminalistics
11 laboratory.

12 (3) A baseline gonorrhea culture, and syphilis serology, shall
13 be taken, if indicated by the history of contact. Specimens for a
14 pregnancy test shall be taken, if indicated by the history of contact.

15 (g) Preservation and disposition of physical evidence shall
16 conform to the following procedures:

17 (1) All swabs and slides shall be air-dried prior to packaging.

18 (2) All items of evidence including laboratory specimens shall
19 be clearly labeled as to the identity of the source and the identity
20 of the person collecting them.

21 (3) The evidence shall have a form attached which documents
22 its chain of custody and shall be properly sealed.

23 (4) The evidence shall be turned over to the proper law
24 enforcement agency.

25 SEC. 50. Section 13861 of the Penal Code is amended to read:

26 13861. There is hereby created in the Office of Criminal
27 Justice Planning the Suppression of Drug Abuse in Schools
28 Program. All funds made available to the Office of Criminal
29 Justice Planning for the purposes of this chapter shall be
30 administered and disbursed by the executive director of the office
31 in consultation with the State Suppression of Drug Abuse in
32 Schools Advisory Committee established pursuant to Section
33 13863.

34 (a) The executive director, in consultation with the State
35 Suppression of Drug Abuse in Schools Advisory Committee, is
36 authorized to allocate and award funds to local law enforcement
37 agencies and public schools jointly working to develop drug abuse
38 prevention and drug trafficking suppression programs in
39 substantial compliance with the policies and ~~criteria~~ *criteria* set
40 forth in Sections 13862 and 13863.

(b) The allocation and award of funds shall be made upon the joint application by the chief law enforcement officer of the coapplicant law enforcement agency and approved by the law enforcement agency's legislative body and the superintendent and board of the school district coapplicant. The joint application of the law enforcement agency and the school district shall be submitted for review to the Local Suppression on Drug Abuse in Schools Advisory Committee established pursuant to paragraph (4) of subdivision (a) of Section 13862. After review, the application shall be submitted to the Office of Criminal Justice Planning. Funds disbursed under this chapter may enhance but shall not supplant local funds that would, in the absence of the Suppression of Drug Abuse in Schools Program, be made available to suppress and prevent drug abuse among school-age children and to curtail drug trafficking in and around school areas.

(c) The coapplicant local law enforcement agency and the coapplicant school district may enter into interagency agreements between themselves which will allow the management and fiscal tasks created pursuant to this chapter and assigned to both the law enforcement agency and the school district to be performed by only one of them.

(d) Within 90 days of the effective date of this chapter, the Executive Director of the Office of Criminal Justice Planning in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee established pursuant to Section 13863 shall prepare and issue administrative guidelines and procedures for the Suppression of Drug Abuse in Schools Program consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of such guidelines and procedures a complete and final draft shall be submitted within 60 days of the effective date of this chapter to the Chairpersons of the Committee on Criminal Law and Public Safety of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

SEC. 51. Section 13897.2 of the Penal Code is amended to read:

13897.2. (a) The Office of Criminal Justice Planning shall grant an award to an appropriate private, nonprofit organization, to provide a statewide resource center, as described in Section 13897.1.

(b) The center shall:

1 (1) Provide callers with information about victims' legal rights
2 to compensation pursuant to Chapter 5 (commencing with Section
3 13959) of Part 4 of Division 3 of Title 2 of the Government Code
4 and, where appropriate, provide victims with guidance in
5 exercising these rights.

6 (2) Provide callers who provide services to victims of crime
7 with legal information regarding the legal rights of victims of
8 crime.

9 (3) Advise callers about any potential civil causes of action,
10 and where appropriate, provide callers with references to local
11 legal aid and lawyer referral services.

12 (4) Advise and assist callers in understanding and
13 implementing their rights to participate in sentencing and parole
14 eligibility hearings as provided by statute.

15 (5) Advise callers about victims' rights in the criminal justice
16 system, assist them in overcoming problems, including the return
17 of property, and inform them of any procedures protecting
18 witnesses.

19 (6) Refer callers, as appropriate, to local programs, which
20 include victim-witness programs, rape crisis units, domestic
21 violence projects, and child sexual abuse centers.

22 (7) Refer callers to local resources for information about
23 appropriate public and private benefits and the means of obtaining
24 aid.

25 (8) Publicize the existence of the toll-free service through the
26 print and electronic media, including public service
27 announcements, brochures, press announcements, various other
28 educational materials, and agreements for the provision of
29 publicity, by private entities.

30 (9) Compile comprehensive referral lists of local resources that
31 include the following: victims' assistance resources, including
32 legal and medical services, financial assistance, personal
33 counseling and support services, and victims' support groups.

34 (10) Produce promotional materials for distribution to law
35 enforcement agencies, state and local agencies, print, radio, and
36 television media outlets, and the general public. These materials
37 shall include placards, video and audio training materials, written
38 handbooks, and brochures for public distribution. Distribution of
39 these materials shall be coordinated with the local victims' service
40 programs.

1 (11) Research, compile, and maintain a library of legal
2 information concerning crime victims and their rights.

3 (12) Provide a 20-percent minimum cash match for all funds
4 appropriated pursuant to this chapter which match may include
5 federal and private funds in order to supplement any funds
6 appropriated by the Legislature.

7 (c) The resource center shall be located so as to assure
8 convenient and regular access between the center and those state
9 agencies most concerned with crime victims. The entity receiving
10 the grant shall be a private, nonprofit organization, independent of
11 law enforcement agencies, and have qualified staff knowledgeable
12 in the legal rights of crime victims and the programs and services
13 available to victims throughout the state. The subgrantee shall
14 have an existing statewide, toll-free information service and have
15 demonstrated substantial capacity and experience serving crime
16 victims in areas required by this act.

17 (d) The services of the resource center shall not duplicate the
18 victim service activities of the Office of Criminal Justice Planning
19 or those activities of local victim programs funded through the
20 office.

21 (e) The subgrantee shall be compensated at its federally
22 approved indirect cost rate, if any. For the purposes of this section,
23 “federally approved indirect cost rate” means that rate established
24 by the federal Department of Health and Human Services or other
25 federal agency for the subgrantee. Nothing in this section shall be
26 construed as requiring the Office of Criminal Justice Planning to
27 permit the use of federally approved indirect cost rates for other
28 subgrantees of other grants administered by the office.

29 (f) All information and records retained by the center in the
30 course of providing services under this chapter shall be
31 confidential and privileged pursuant to Article 3 (commencing
32 with Section 950) of Chapter 4 of Division 8 of the Evidence Code
33 and Article 4 (commencing with Section ~~6068~~ 6060) of Chapter
34 4 of Division 3 of the Business and Professions Code. Nothing in
35 this subdivision shall prohibit compilation and distribution of
36 statistical data by the center.

37 SEC. 52. Section 14202 of the Penal Code is amended to read:

38 14202. (a) The Attorney General shall establish and maintain
39 within the center an investigative support unit and an automated
40 violent crime method of operation system to facilitate the

1 identification and apprehension of persons responsible for murder,
2 kidnap, including parental abduction, false imprisonment, or
3 sexual assault. This unit shall be responsible for identifying
4 perpetrators of violent felonies collected from the center and
5 analyzing and comparing data on missing persons in order to
6 determine possible leads which could assist local law enforcement
7 agencies. This unit shall only release information about active
8 investigations by police and sheriffs' departments to local law
9 enforcement agencies.

10 (b) The Attorney General shall make available to the
11 investigative support unit files organized by category of offender
12 or victim and shall seek information from other files as needed by
13 the unit. This set of files may include, among others, the following:

14 (1) Missing or unidentified, deceased ~~persons~~ *persons'* dental
15 files filed pursuant to this title, Section 27521 of the Government
16 Code, or Section 102870 of the Health and Safety Code.

17 (2) Child abuse reports filed pursuant to Section 11169.

18 (3) Sex offender registration files maintained pursuant to
19 Section 290.

20 (4) State summary criminal history information maintained
21 pursuant to Section 11105.

22 (5) Information obtained pursuant to the parent locator service
23 maintained pursuant to Section 11478.5 of the Welfare and
24 Institutions Code.

25 (6) Information furnished to the Department of Justice
26 pursuant to Section 11107.

27 (7) Other Attorney General's office files as requested by the
28 investigative support unit.

29 This section shall become operative on July 1, 1989.

30 SEC. 53. Section 8285 of the Public Utilities Code is amended
31 to read:

32 8285. Any person or corporation, through its directors,
33 officers, or agents, which falsely represents a business as a women,
34 minority, or disabled veteran business enterprise in the
35 procurement of, or attempt to procure, contracts from an electrical,
36 gas, or telephone corporation with gross annual revenues
37 exceeding twenty-five million dollars (\$25,000,000), or a
38 commission-regulated subsidiary or affiliate subject to this article,
39 shall be punished by a fine of not more than five thousand dollars
40 (\$5,000) or by imprisonment in ~~the a~~ county jail for not ~~to exceed~~

more than one year or in the state prison ~~for not to exceed five years~~, or by both that fine and imprisonment. In the case of a corporation, the fine or imprisonment, or both, shall be imposed on every director, officer, or agent responsible for the false statements.

SEC. 54. Section 19542.3 of the Revenue and Taxation Code is amended to read:

19542.3. Any person who willfully divulges or makes known software, as defined in paragraph (1) of subdivision (d) of Section 19504.5, to any person in violation of Section 19504.5 is punishable by imprisonment in ~~the a~~ county jail ~~not to exceed for~~ *not more than* one year, or in the state prison ~~not to exceed five years~~, at the discretion of the court or by *a* fine of not more than five thousand dollars (\$5,000), or by both ~~the fines that fine~~ and imprisonment, at the discretion of the court, together with the costs of investigation and prosecution.

SEC. 55. Section 43606 of the Revenue and Taxation Code is amended to read:

43606. Every person convicted of a felony for a violation of any of the provisions of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars (\$5,000) or by imprisonment in ~~the state prison for not less than one year nor more than five years~~, or by both ~~such that~~ *that* fine and imprisonment.

SEC. 56. Section 45955 of the Revenue and Taxation Code is amended to read:

45955. Every person convicted of a felony for a violation of any provision of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars (\$5,000), by imprisonment in ~~the state prison for not less than one year nor more than five years~~, or by both ~~that fine and imprisonment~~.

SEC. 57. Section 46705 of the Revenue and Taxation Code is amended to read:

46705. Every person convicted of a felony for a violation of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars (\$5,000) or by imprisonment in *the state prison* ~~for not less than one year nor more than five years~~, or by both that

1 fine and imprisonment in the discretion of the court, together with
2 *the* cost of investigation and prosecution.

3 SEC. 58. Section 1808 of the Vehicle Code is amended to
4 read:

5 1808. (a) Except where a specific provision of law prohibits
6 the disclosure of records or information or provides for
7 confidentiality, all records of the department relating to the
8 registration of vehicles, other information contained on an
9 application for a driver's license, abstracts of convictions, and
10 abstracts of accident reports required to be sent to the department
11 in Sacramento, except for abstracts of accidents where, in the
12 opinion of a reporting officer, another individual was at fault, shall
13 be open to public inspection during office hours. All abstracts of
14 accident reports shall be available to law enforcement agencies
15 and courts of competent jurisdiction.

16 (b) The department shall make available or disclose abstracts
17 of convictions and abstracts of accident reports required to be sent
18 to the department in Sacramento, as described in subdivision (a),
19 if the date of the occurrence is not later than the following:

20 (1) Seven years for any violation designated as two points
21 pursuant to Section 12810.

22 (2) Three years for accidents and all other violations.

23 (c) The department shall make available or disclose
24 suspensions and revocations of the driving privilege while the
25 suspension or revocation is in effect and for three years following
26 termination of the action or reinstatement of the privilege, except
27 that drivers license suspension actions taken pursuant to Sections
28 13202.6 and 13202.7, or Section 256 or 11350.6 of the Welfare and
29 Institutions Code shall be disclosed only during the actual time
30 period in which the suspension is in effect.

31 (d) The department shall not make available or disclose any
32 suspension or revocation that has been judicially set aside or
33 stayed.

34 (e) The department shall not make available or disclose
35 personal information about any person unless the disclosure is in
36 compliance with the Driver's Privacy Protection Act of 1994 (18
37 U.S.C. Sec. 2721 et seq.). However, any disclosure is subject to the
38 prohibition in paragraph (2) of subdivision (a) of Section 12800.5.

39 (f) The department shall make available or disclose to the
40 courts and law enforcement agencies any conviction of Section

23152, 23153, or ~~Section 191.5~~ or paragraph (1) ~~or (3)~~ of subdivision (c) of Section 192 of the Penal Code, punished as a felony for a period of 10 years from the date of the offense *or any conviction of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, punished as a felony for an indefinite period from the date of the offense* for the purpose of imposing penalties mandated by Section 23550.5, or by any other applicable provisions of California law.

SEC. 59. Section 13377 of the Vehicle Code is amended to read:

13377. (a) The department shall not issue or renew, or shall revoke, the tow truck driver certificate of an applicant or holder for any of the following causes:

(1) The tow truck driver certificate applicant or holder has been convicted of a violation of Section 220 of the Penal Code.

(2) The tow truck driver certificate applicant or holder has been convicted of a violation of paragraph (1), (2), (3), or (4) of subdivision (a) of Section 261 of the Penal Code.

(3) The tow truck driver certificate applicant or holder has been convicted of a violation of Section 264.1, 267, 288, or 289 of the Penal Code.

(4) The tow truck driver certificate applicant or holder has been convicted of any felony or three misdemeanors which are crimes of violence, as defined in *paragraph (3) of subdivision (i) (h)* of Section 11105.3 of the Penal Code.

(5) The tow truck driver certificate applicant's or holder's driving privilege has been suspended or revoked in accordance with any provisions of this code.

(b) For purposes of this section, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. For purposes of this section, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, is conclusive evidence of the conviction.

(c) Whenever the department receives information from the Department of Justice, or the Federal Bureau of Investigation, that a tow truck driver has been convicted of an offense specified in paragraph (1), (2), (3), or (4) of subdivision (a), the department shall immediately notify the employer and the Department of the California Highway Patrol.

1 (d) An applicant or holder of a tow truck driver certificate,
2 whose certificate was denied or revoked, may reapply for a
3 certificate whenever the applicable felony or misdemeanor
4 conviction is reversed or dismissed. If the cause for the denial or
5 revocation was based on the suspension or revocation of the
6 applicant's or holder's driving privilege, he or she may reapply for
7 a certificate upon restoration of his or her driving privilege. A
8 termination of probation and dismissal of charges pursuant to
9 Section 1203.4 of the Penal Code or a dismissal of charges
10 pursuant to 1203.4a of the Penal Code is not a dismissal for
11 purposes of this section.

12 SEC. 60. Section 15302 of the Vehicle Code is amended to
13 read:

14 15302. No driver of a commercial motor vehicle may operate
15 a commercial motor vehicle for the rest of his or her life if
16 convicted of more than one violation of any of the following:

17 (a) Driving a commercial motor vehicle while under the
18 influence of alcohol or a controlled substance.

19 (b) Leaving the scene of an accident involving a commercial
20 motor vehicle operated by the driver.

21 (c) Using a commercial motor vehicle in the commission of
22 more than one felony arising out of separate occasions of arrest or
23 citation.

24 (d) Driving a commercial motor vehicle when the driver's
25 commercial driver's license is revoked, suspended, or canceled
26 based on the driver's operation of a commercial motor vehicle or
27 when the driver is disqualified from operating a commercial motor
28 vehicle based on the driver's operation of a commercial motor
29 vehicle.

30 (e) Causing a fatality involving conduct defined pursuant to
31 subparagraph (E) of paragraph (1) of subsection (c) of Title 49 of
32 Section 31310 of the United States Code.

33 (f) A violation of Section 2800.1, 2800.2, or 2800.3 that
34 involves a commercial motor vehicle.

35 ~~(e)~~

36 (g) Any combination of the above violations.

37 SEC. 61. Section 13387 of the Water Code is amended to read:

38 13387. (a) Any person who knowingly or negligently does
39 any of the following is subject to criminal penalties as provided in
40 subdivisions (b), (c), and (d):



(1) Violates Section 13375 or 13376.

(2) Violates any waste discharge requirements or dredged or fill material permit.

(3) Violates any order or prohibition issued pursuant to Section 13243 or 13301, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(4) Violates any requirement of Section 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act, as amended.

(5) Introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substances which the person knew or reasonably should have known could cause personal injury or property damage.

(6) Introduces any pollutant or hazardous substance into a sewer system or into a publicly owned treatment works, except in accordance with any applicable pretreatment requirements, which pollutant or hazardous substance causes the treatment works to violate waste discharge requirements.

(b) Any person who negligently commits any of the violations set forth in subdivision (a) shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000), nor more than twenty-five thousand dollars (\$25,000), for each day in which the violation occurs, or by imprisonment for not more than one year in ~~the~~ a county jail, or by both *that fine and imprisonment*. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, subdivision (c), or subdivision (d), punishment shall be by a fine of not more than fifty thousand dollars (\$50,000) for each day in which the violation occurs, or by imprisonment ~~of not more than two years in the state prison for 16, 20, or 24 months~~, or by both *that fine and imprisonment*.

(c) Any person who knowingly commits any of the violations set forth in subdivision (a) shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000), nor more than fifty thousand dollars (\$50,000), for each day in which the violation occurs, or by imprisonment in the state prison ~~for not more than three years~~, or by both *that fine and imprisonment*. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision or subdivision (d), punishment shall be by a fine of not more than one hundred thousand dollars (\$100,000) for each day in which the violation

1 occurs, or by imprisonment in the state prison ~~of not more than for~~
2 ~~two, four, or six years~~, or by both ~~that fine and imprisonment~~.

3 (d) (1) Any person who knowingly commits any of the
4 violations set forth in subdivision (a), and who knows at the time
5 that the person thereby places another person in imminent danger
6 of death or serious bodily injury, shall, upon conviction, be ~~subject~~
7 ~~to punished by~~ a fine of not more than two hundred fifty thousand
8 dollars (\$250,000) or ~~by imprisonment in the state prison of not~~
9 ~~more than for 5, 10, or 15 years~~, or ~~by both that fine and~~
10 ~~imprisonment~~. A person which is an organization shall, upon
11 conviction under this subdivision, be subject to a fine of not more
12 than one million dollars (\$1,000,000). If a conviction of a person
13 is for a violation committed after a first conviction of the person
14 under this subdivision, the ~~maximum~~ punishment shall be a fine
15 of not more than five hundred thousand dollars (\$500,000) or
16 imprisonment in the state prison ~~of not more than 10, 20, or 30~~
17 ~~years~~, or ~~by both that fine and imprisonment~~. A person which is an
18 organization shall, upon conviction for a violation committed after
19 a first conviction of the person under this subdivision, be subject
20 to a fine of not more than two million dollars (\$2,000,000). Any
21 fines imposed pursuant to this subdivision shall be in addition to
22 any fines imposed pursuant to subdivision (c).

23 (2) In determining whether a defendant who is an individual
24 knew that the defendant's conduct placed another person in
25 imminent danger of death or serious bodily injury, the defendant
26 is responsible only for actual awareness or actual belief that the
27 defendant possessed, and knowledge possessed by a person other
28 than the defendant, but not by the defendant personally, cannot be
29 attributed to the defendant.

30 (e) Any person who knowingly makes any false statement,
31 representation, or certification in any record, report, plan, notice
32 to comply, or other document filed with a regional board or the
33 state board, or who knowingly falsifies, tampers with, or renders
34 inaccurate any monitoring device or method required under this
35 division shall be punished by a fine of not more than twenty-five
36 thousand dollars (\$25,000), or by imprisonment in the state prison
37 ~~for not more than two years~~ *16, 20, or 24 months*, or by both ~~that~~
38 ~~fine and imprisonment~~. If a conviction of a person is for a violation
39 committed after a first conviction of the person under this
40 subdivision, punishment shall be by a fine of not more than

1 twenty-five thousand dollars (\$25,000) per day of violation, or by
2 imprisonment in the state prison of not more than four years, or by
3 both.

4 (f) For purposes of this section, a single operational upset
5 which leads to simultaneous violations of more than one pollutant
6 parameter shall be treated as a single violation.

7 (g) For purposes of this section, “organization,” “serious
8 bodily injury,” “person,” and “hazardous substance” shall have
9 the same meaning as in Section 309(c) of the Clean Water Act, as
10 amended.

11 (h) Funds collected pursuant to this section shall be deposited
12 in the State Water Pollution Cleanup and Abatement Account.

13 SEC. 62. Section 355.1 of the Welfare and Institutions Code
14 is amended to read:

15 355.1. (a) Where the court finds, based upon competent
16 professional evidence, that an injury, injuries, or detrimental
17 condition sustained by a minor is of a nature as would ordinarily
18 not be sustained except as the result of the unreasonable or
19 neglectful acts or omissions of either parent, the guardian, or other
20 person who has the care or custody of the minor, that finding shall
21 be prima facie evidence that the minor is a person described by
22 subdivision (a), (b), or (d) of Section 300.

23 (b) Proof that either parent, the guardian, or other person who
24 has the care or custody of a minor who is the subject of a petition
25 filed under Section 300 has physically abused, neglected, or
26 cruelly treated another minor shall be admissible in evidence.

27 (c) The presumption created by subdivision (a) constitutes a
28 presumption affecting the burden of producing evidence.

29 (d) Where the court finds that either a parent, a guardian, or any
30 other person who resides with, or has the care or custody of, a
31 minor who is currently the subject of the petition filed under
32 Section 300 (1) has been previously convicted of sexual abuse as
33 defined in Section 11165.1 of the Penal Code, (2) has been
34 previously convicted of an act in another ~~state~~ *jurisdiction* that
35 would constitute sexual abuse as defined in Section 11165.1 of the
36 Penal Code if committed in this state, (3) has been found in a prior
37 dependency hearing or similar proceeding in the corresponding
38 court of another ~~state~~ *jurisdiction* to have committed an act of
39 sexual abuse, or (4) is required, as the result of a felony conviction,
40 to register as a sex offender pursuant to Section 290 of the Penal

1 Code, that finding shall be prima facie evidence in any proceeding
2 that the subject minor is a person described by subdivision (a), (b),
3 (c), or (d) of Section 300 and is at substantial risk of abuse or
4 neglect. The prima facie evidence constitutes a presumption
5 affecting the burden of producing evidence.

6 (e) Where the court believes that a child has suffered criminal
7 abuse or neglect, the court may direct a representative of the child
8 protective agency to take action pursuant to subdivision (i) of
9 Section 11166 of the Penal Code.

10 (f) Testimony by a parent, guardian, or other person who has
11 the care or custody of the minor made the subject of a proceeding
12 under Section 300 shall not be admissible as evidence in any other
13 action or proceeding.

14 SEC. 63. Section 1732.6 of the Welfare and Institutions Code
15 is amended to read:

16 1732.6. (a) No minor shall be committed to the Youth
17 Authority when he or she is convicted in a criminal action for an
18 offense described in *subdivision (c) of* Section 667.5 or
19 subdivision (c) of Section 1192.7 of the Penal Code and is
20 sentenced to incarceration for life, an indeterminate period to life,
21 or a determinate period of years such that the maximum number
22 of years of potential confinement when added to the minor's age
23 would exceed 25 years. Except as specified in subdivision (b), in
24 all other cases in which the minor has been convicted in a criminal
25 action, the court shall retain discretion to sentence the minor to the
26 Department of Corrections or to commit the minor to the Youth
27 Authority.

28 (b) No minor shall be committed to the Youth Authority when
29 he or she is convicted in a criminal action for:

30 (1) An offense described in subdivision (b) of Section 602, or

31 (2) An offense described in paragraphs (1), (2), or (3) of
32 subdivision (d) of Section 707, if the circumstances enumerated in
33 those paragraphs are found to be true by the trier of fact.

34 (3) An offense described in subdivision (b) of Section 707, if
35 the minor had attained the age of 16 years of age or older at the time
36 of commission of the offense.

37 (c) Notwithstanding any other provision of law, no person
38 under the age of 16 years shall be housed in any facility under the
39 jurisdiction of the Department of Corrections.

1 SEC. 64. Section 3 of the initiative act cited in the title, is
2 amended to read:

3 Sec. 3. (a) Every person, company, association or
4 corporation, who for any loan or forbearance of money, goods or
5 things in action shall have paid or delivered any greater sum or
6 value than is allowed to be received under the preceding sections,
7 one and two, may either in person or his or its personal
8 representative, recover in an action at law against the person,
9 company, association or corporation who shall have taken or
10 received the same, or his or its personal representative, treble the
11 amount of the money so paid or value delivered in violation of said
12 sections, providing such action shall be brought within one year
13 after such payment or delivery.

14 (b) Any person who willfully makes or negotiates, for himself
15 or another, a loan of money, credit, goods, or things in action, and
16 who directly or indirectly charges, contracts for, or receives with
17 respect to any such loan any interest or charge of any nature, the
18 value of which is in excess of that allowed by law, is guilty of
19 loan-sharking, a felony, and is punishable by imprisonment in the
20 state prison ~~for not more than five years~~ or in ~~the~~ a county jail for
21 not more than one year. This subdivision shall not apply to any
22 person licensed to make or negotiate, for himself or another, loans
23 of money, credit, goods, or things in action, or expressly exempted
24 from compliance by the laws of this state with respect to such
25 licensure or interest or other charge, or to any agent or employee
26 of such person when acting within the scope of his *or her* agency
27 or employment.

28 SEC. 65. Section 30 of this act shall become effective only
29 when submitted to and approved by the electors, pursuant to
30 subdivision (c) of Section 24 of Article IV of the California
31 Constitution.

32 SEC. 66. Section 64 of this act shall become effective only
33 when submitted to and approved by the electors, pursuant to
34 subdivision (c) of Section 24 of Article IV of the California
35 Constitution.

36 SEC. 67. No reimbursement is required by this act pursuant
37 to Section 6 of Article XIII B of the California Constitution
38 because the only costs that may be incurred by a local agency or
39 school district will be incurred because this act creates a new crime
40 or infraction, eliminates a crime or infraction, or changes the

1 penalty for a crime or infraction, within the meaning of Section
2 17556 of the Government Code, or changes the definition of a
3 crime within the meaning of Section 6 of Article XIII B of the
4 California Constitution.

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